
HOUSE BILL 1098

State of Washington

63rd Legislature

2013 Regular Session

By Representatives Hope and Hurst

Read first time 01/16/13. Referred to Committee on Public Safety.

1 AN ACT Relating to adopting certain unanimous recommendations of
2 the bail practices work group created in section 2, chapter 256, Laws
3 of 2010; amending RCW 10.19.090, 10.19.100, 10.19.160, 18.185.010,
4 18.185.020, 18.185.040, 18.185.070, 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 The surety on the bond may return a person to custody (~~((a person))~~)
13 for good cause in a criminal case under the surety's bond if the
14 surrender is accompanied by a notice of forfeiture or a notarized
15 affidavit specifying the reasons for the surrender. Good cause for
16 surrender includes, but is not limited to, a reasonable belief in a
17 substantial increase in the likelihood of the risk of flight, violation
18 of a court order, failure to appear, or the concealment or intentional
19 misrepresentation of information by the person, provided that good
20 cause does not include failure to make timely payments to the surety
21 for the bond premium. The surrender shall be made to the (~~((facility in~~
22 ~~which the person was originally held in custody or the))~~) facility in
23 which the person was originally held in custody or the county or city
24 jail affiliated with the court issuing the warrant resulting in bail.
25 If, upon motion by a party to the bail transaction, a court determines
26 that good cause does not exist for the surety to surrender a person,
27 the sole remedy is that the surety shall return the premium paid by, or
28 on behalf of, the person, as well as any recovery fee.

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

31 The presiding judge of a court shall notify the administrative
32 office of the courts when the court revokes or reinstates the
33 justification or certification of a bail bond agent to post bonds in
34 the court. The notice to the administrative office of the courts must
35 include the reasons for the revocation or reinstatement. Upon
36 receiving the notification, the administrative office of the courts

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

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

8 Unless the context clearly requires otherwise, the definitions in
9 this section apply throughout this chapter.

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

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

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

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

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

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

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

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

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

33 (10) "Bail bond recovery agent" means a person who is under
34 contract with a bail bond agent to receive compensation, reward, or any
35 other form of lawful consideration for locating, apprehending, and
36 surrendering a fugitive criminal defendant for whom a bail bond has

1 been posted. "Bail bond recovery agent" does not include a general
2 authority Washington peace officer or a limited authority Washington
3 peace officer.

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

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

17 (12) "Property bond" means a bail bond executed for compensation
18 that is guaranteed by a bail bond agent licensed to do business as a
19 bail bond agent by the department.

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

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

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

27 **Sec. 6.** RCW 18.185.020 and 1993 c 260 s 3 are each amended to read
28 as follows:

29 An applicant must meet the following minimum requirements to obtain
30 or renew a bail bond agent license:

- 31 (1) Be at least eighteen years of age;
- 32 (2) Be a citizen or resident alien of the United States;
- 33 (3) Not have been convicted of a crime in any jurisdiction in the
34 preceding ten years, if the director determines that the applicant's
35 particular crime directly relates to a capacity to perform the duties
36 of a bail bond agent and the director determines that the license
37 should be withheld to protect the citizens of Washington state. If the

1 director shall make a determination to withhold a license because of
2 previous convictions, the determination shall be consistent with the
3 restoration of employment rights act, chapter 9.96A RCW;

4 (4) Be employed by a bail bond agency or be licensed as a bail bond
5 agency; and

6 (5) Pay the required fee.

7 **Sec. 7.** RCW 18.185.040 and 2004 c 186 s 4 are each amended to read
8 as follows:

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

14 (2) Applicants for licensure or endorsement as a bail bond agent or
15 a bail bond recovery agent must complete a records check through the
16 Washington state patrol criminal identification system and through the
17 federal bureau of investigation at the applicant's expense. Such
18 record check shall include a fingerprint check using a Washington state
19 patrol approved fingerprint card. The Washington state patrol shall
20 forward the fingerprints of applicants to the federal bureau of
21 investigation for a national criminal history records check. The
22 director may accept proof of a recent national crime information
23 center/III criminal background report or any national or interstate
24 criminal background report in addition to fingerprints to accelerate
25 the licensing and endorsement process. The director is authorized to
26 periodically perform a background investigation of licensees to
27 identify criminal convictions subsequent to the renewal of a license or
28 endorsement.

29 **Sec. 8.** RCW 18.185.070 and 1993 c 260 s 8 are each amended to read
30 as follows:

31 (1) No bail bond agency license may be issued under the provisions
32 of this chapter unless the qualified agent files with the director a
33 bond, executed by a surety company authorized to do business in this
34 state, in the sum of ten thousand dollars for a surety bond agency and
35 one hundred thousand dollars for a property bond agency conditioned to
36 recover against the agency and its servants, officers, agents, and

1 employees by reason of its violation of the provisions of RCW
2 18.185.100. The bond shall be made payable to the state of Washington,
3 and anyone so injured by the agency or its servants, officers, agents,
4 or employees may bring suit upon the bond in any county in which
5 jurisdiction over the licensee may be obtained. The suit must be
6 brought not later than two years after the failure to return property
7 in accordance with RCW 18.185.100. If valid claims against the bond
8 exceed the amount of the bond or deposit, each claimant shall be
9 entitled only to a pro rata amount, based on the amount of the claim as
10 it is valid against the bond, without regard to the date of filing of
11 any claim or action.

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

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

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

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

25 In addition to the unprofessional conduct described in RCW
26 18.235.130, the following conduct, acts, or conditions constitute
27 unprofessional conduct:

28 (1) Violating any of the provisions of this chapter or the rules
29 adopted under this chapter;

30 (2) Failing to meet the qualifications set forth in RCW 18.185.020,
31 18.185.030, and 18.185.250;

32 (3) Knowingly committing, or being a party to, any material fraud,
33 misrepresentation, concealment, conspiracy, collusion, trick, scheme,
34 or device whereby any other person lawfully relies upon the word,
35 representation, or conduct of the licensee. However, this subsection

36 (3) does not prevent a bail bond recovery agent from using any pretext

1 to locate or apprehend a fugitive criminal defendant or gain any
2 information regarding the fugitive;

3 (4) Assigning or transferring any license issued pursuant to the
4 provisions of this chapter, except as provided in RCW 18.185.030 or
5 18.185.250;

6 (5) Conversion of any money or contract, deed, note, mortgage, or
7 other evidence of title, to his or her own use or to the use of his or
8 her principal or of any other person, when delivered to him or her in
9 trust or on condition, in violation of the trust or before the
10 happening of the condition; and failure to return any money or
11 contract, deed, note, mortgage, or other evidence of title within
12 thirty days after the owner is entitled to possession, and makes demand
13 for possession, shall be prima facie evidence of conversion;

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

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

20 ((+7)) (8) Any conduct in a bail bond transaction which
21 demonstrates bad faith, dishonesty, or untrustworthiness;

22 ((+8)) (9) Violation of an order to cease and desist that is
23 issued by the director under chapter 18.235 RCW;

24 ((+9)) (10) Wearing, displaying, holding, or using badges not
25 approved by the department;

26 ((+10)) (11) Making any statement that would reasonably cause
27 another person to believe that the bail bond recovery agent is a sworn
28 peace officer;

29 ((+11)) (12) Failing to carry a copy of the contract or to present
30 a copy of the contract as required under RCW 18.185.270(1);

31 ((+12)) (13) Using the services of an unlicensed bail bond
32 recovery agent or using the services of a bail bond recovery agent
33 without issuing the proper contract;

34 ((+13)) (14) Misrepresenting or knowingly making a material
35 misstatement or omission in the application for a license;

36 ((+14)) (15) Using the services of a person performing the
37 functions of a bail bond recovery agent who has not been licensed by
38 the department as required by this chapter;

1 (~~(15)~~) (16) Performing the functions of a bail bond recovery
2 agent without being both (a) licensed under this chapter or supervised
3 by a licensed bail bond recovery agent under RCW 18.185.290; and (b)
4 under contract with a bail bond agent;

5 (~~(16)~~) (17) Performing the functions of a bail bond recovery
6 agent without exercising due care to protect the safety of persons
7 other than the defendant and the property of persons other than the
8 defendant; (~~or~~

9 ~~(17)~~) (18) Using a dog in the apprehension of a fugitive criminal
10 defendant;

11 (19) Surrendering a person without good cause pursuant to RCW
12 10.19.160; or

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

16 NEW SECTION. **Sec. 10.** If any provision of this act or its
17 application to any person or circumstance is held invalid, the
18 remainder of the act or the application of the provision to other
19 persons or circumstances is not affected.

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