

STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1998

**Introduced by Senators Cherry, Van Regenmorter, McManus, V. Smith, Dingell, Peters, Cisky, Geake,
DeBeaussaert and Conroy**

ENROLLED SENATE BILL No. 820

AN ACT to license and regulate bail enforcement agents; to provide for certain powers and duties for certain state agencies and law enforcement agencies; to require the obtaining of surety devices by licensees; to provide for the imposition of certain fees and establishment of certain standards of operation of licensees; to provide for the promulgation of rules; and to provide remedies and prescribe penalties.

The People of the State of Michigan enact:

Sec. 1. This act shall be known and may be cited as the “bail enforcement agent regulation act”.

Sec. 3. As used in this act:

(a) “Bail enforcement agent” means an individual who has been contractually retained as an agent by a surety or surety agent or who is otherwise authorized to act on behalf of the surety, with or without consideration, for the delivery of a principal to the sheriff or other peace officer of any jurisdiction. Bail enforcement agent does not include a surety who is a natural person executing a recognizance on his or her own behalf.

(b) “Department” means the department of consumer and industry services.

(c) “Principal” means an individual charged with a crime in this or any other state who is the subject of a recognizance issued by a surety for the individual’s appearance on that criminal matter.

(d) “Surety” means an individual or business entity that has entered into a recognizance as a surety for the personal appearance of an individual charged with a crime.

Sec. 5. (1) Subject to section 11, an individual shall not act as, attempt to act as, or represent himself or herself as being a bail enforcement agent unless that individual obtains a license from the department under this act.

(2) An individual may act or attempt to act as a bail enforcement agent only under 1 or more of the following circumstances based upon the information and belief of the surety:

(a) The individual subject to the recognizance has failed to appear at a required court appearance or has violated or may violate a condition of recognizance.

(b) The principal has left, is leaving, or is attempting to leave the jurisdiction.

(c) Failure of the sureties submitted by the principal.

(d) Disposition of the property by the principal or any other person for the apparent purpose of evading the payment to the surety.

(e) Action of the surety pursuant to section 26 of chapter V of the code of criminal procedure, 1927 PA 175, MCL 765.26.

Sec. 7. (1) The department shall issue a license as a bail enforcement agent only to a natural person.

(2) An individual seeking licensure as a bail enforcement agent shall do all of the following:

(a) Apply to the department on a form supplied by the department and pay an application fee and a per-year license fee in the amount determined by the department in rules promulgated under subsection (6).

(b) Be at least 18 years of age.

(c) Supply a copy of the applicant's fingerprints acceptable to the department. The applicant shall sign an authorization for a criminal history check by the criminal history records division of the department of state police, including the records of the federal bureau of investigation, and pay a fee determined appropriate by the department to cover the cost of the criminal history check.

(d) If applicable, demonstrate to the department that at least 10 years have passed after all of the following conditions regarding any felony convictions and misdemeanor convictions involving physical injury to another person:

(i) The payment of all fines, costs, and restitution.

(ii) The serving of all terms of imprisonment.

(iii) The completion of all conditions of probation or parole.

(3) Upon the issuance of a license, the department shall issue a picture identification card stating the name and any alias of the licensee, the date of issuance and expiration date of the license, and the principal business address of the licensee. For a charge of at least \$10.00 but not to exceed the cost of issuance, the department shall issue a new card to a licensee whose card is lost or destroyed.

(4) A license under this act is valid for a period of 12 months from the date of its issuance and is renewable by filing a renewal application not less than 30 days before the expiration date and enclosing the per-year license fee.

(5) Within 30 days after a change of home or business address, the licensee shall notify the department in writing of the change. Upon receipt of such a change, the department shall enter the change into its records and send a sticker to the licensee with the corrected information to be placed on the licensee's identification card.

(6) The department shall promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to set fees for application for licensure under this act and for a per-year license fee. The fees shall be in an amount determined by the department to cover the actual costs of processing the application and issuing the license.

Sec. 9. A bail enforcement agent shall do all of the following:

(a) Notify by telephone or in person an appropriate law enforcement agency having jurisdiction over the location where the apprehension will occur or is planned no sooner than 24 hours before and at least 30 minutes in advance of a planned attempt to apprehend a principal. This subdivision does not apply if all of the following circumstances exist:

(i) The bail enforcement agent is confronted with an unanticipated opportunity to apprehend a principal that would be seriously jeopardized by the delay inherent in providing advance notice so long as a reasonable person would conclude that the apprehension can be accomplished without the use of force.

(ii) It is not foreseeable to a reasonable person that injury to another person or property will occur.

(iii) The bail enforcement agent notifies the law enforcement agency within 60 minutes after the apprehension.

(b) Have in his or her possession documentation demonstrating that he or she has been retained or independently contracted and authorized by the surety to effect the apprehension.

(c) Have in his or her possession his or her license issued under this act or a license issued by another jurisdiction and at least 1 additional picture identification other than the licensee identification issued under this or another jurisdiction. This additional picture identification shall be an operator's or chauffeur's license or an official identification issued by this or any other jurisdiction.

Sec. 11. A surety or an individual licensed as a bail enforcement agent in another jurisdiction may act as a bail enforcement agent in this state so long as he or she acts in compliance with section 9.

Sec. 13. (1) A person determined by a court of competent jurisdiction to have done any of the following is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$2,000.00, or both:

(a) Acted as, attempted to act as, or represented himself or herself as being a bail enforcement agent without being licensed under this act.

(b) Knowingly possessed an altered or forged bail enforcement agent identification card or license or knowingly altered or forged a bail enforcement agent identification card or license.

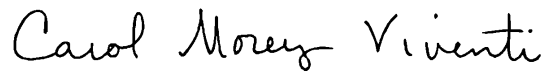
(c) In the case of a person not licensed under this act but licensed by another jurisdiction, failed to comply with section 9.

(2) Except as otherwise provided in subsection (1), a person determined by a court of competent jurisdiction to have, while licensed under this act, violated any other section of this act is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

Sec. 15. After a notice and an opportunity for a hearing under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, the department may suspend or revoke a license issued under this act of an individual determined to have violated this act.

Sec. 17. The sanctions and remedies under this act are independent and cumulative. The use of a remedy or the imposition of a sanction under this act does not bar other lawful remedies and does not limit criminal and civil liability.

Enacting section 1. This act does not take effect unless Senate Bill No. 1264 of the 89th Legislature is enacted into law.



Secretary of the Senate.



Clerk of the House of Representatives.

Approved _____

Governor.