

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 CONFERENCE COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL 587

By: Shortey of the Senate

and

Montgomery of the House

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8 CONFERENCE COMMITTEE SUBSTITUTE

9
10 An Act relating to the Bail Enforcement and Licensing
11 Act; amending 59 O.S. 2011, Sections 1303, as amended
12 by Section 407, Chapter 22, O.S.L. 2013, 1311.3, as
13 amended by Section 1, Chapter 373, O.S.L. 2014,
14 Section 13, Chapter 373, O.S.L. 2014, 1327, as
15 amended by Section 23, Chapter 407, O.S.L. 2013,
16 1350.6, as amended by Section 7, Chapter 407, O.S.L.
17 2013, 1350.9, as amended by Section 5, Chapter 373,
18 O.S.L. 2014 (59 O.S. Supp. 2014, Sections 1303,
19 1311.3, 1311.4, 1327, 1350.6, and 1350.9), which
20 relate to licenses required, unlawful acts, assisting
21 other bondsmen, surrender of defendant, prohibition
22 to breaking and entering, and qualifications for
23 licensure; updating references; modifying certain
24 exceptions; stating penalty for certain violation;
prohibiting use of unlicensed persons; stating
penalty; making language gender neutral; exonerating
bond under certain conditions; expanding authority to
break and enter dwelling under certain conditions;
providing for out-of-state licensure; authorizing
residency waiver; providing for certain rules;
providing for disciplinary action for violations; and
declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

1 SECTION 1. AMENDATORY 59 O.S. 2011, Section 1303, as
2 amended by Section 407, Chapter 22, O.S.L. 2013 (59 O.S. Supp. 2014,
3 Section 1303), is amended to read as follows:

4 Section 1303. A. No person shall act in the capacity of a bail
5 bondsman or perform any of the functions, duties or powers
6 prescribed for bail bondsmen under the provisions of Section 1301 et
7 seq. of this title, unless that person shall be qualified and
8 licensed as provided in Section 1301 et seq. of this title or as
9 authorized pursuant to the Bail Enforcement and Licensing Act.
10 Provided, however, none of the provisions or terms of this section
11 shall prohibit any individual or individuals from:

12 1. Pledging real or other property as security for a bail bond
13 for himself, herself or another in judicial proceedings who does not
14 receive, or is not promised, a fee or charge for his or her services
15 provided such person shall not be permitted to make in excess of ten
16 bonds per year; or

17 2. Executing any bail bond for an insurer, pursuant to a bail
18 bond service agreement entered into between such insurer and any
19 automobile club or association, financing institution, insurance
20 company or other organization or association, on behalf of a person
21 required to furnish bail in connection with any violation of law
22 arising out of the use of a motor vehicle.

23 B. No bail bondsman license shall be issued except in
24 compliance with Section 1301 et seq. of this title and none shall be

1 issued except to an individual. License renewals shall be granted
2 subject to all other provisions of Section 1301 et seq. of this
3 title.

4 A corporation as such shall not be licensed. Nothing herein
5 contained shall be construed as repealing Section 11 of Title 5 of
6 the Oklahoma Statutes; and it is further provided that licensed
7 attorneys are prohibited from signing any bonds as surety in any
8 civil or criminal action pending or about to be filed in any court
9 of this state.

10 C. Any person violating the provisions of subsection A of this
11 section shall be guilty of a felony and shall be punished by a fine
12 in an amount not exceeding Five Thousand Dollars (\$5,000.00), upon
13 conviction.

14 SECTION 2. AMENDATORY 59 O.S. 2011, Section 1311.3, as
15 amended by Section 1, Chapter 373, O.S.L. 2014 (59 O.S. Supp. 2014,
16 Section 1311.3), is amended to read as follows:

17 Section 1311.3. A. It shall be unlawful for any person whose
18 license to act as a bail bondsman has been suspended, revoked,
19 surrendered, or refused, to do or perform any of the acts of a bail
20 bondsman. Any person convicted of violating the provisions of this
21 subsection shall be guilty of a felony and shall be punished by a
22 fine in an amount not exceeding Five Thousand Dollars (\$5,000.00).

23 B. It shall be unlawful for any bail bondsman to assist, aid,
24 or conspire with a person whose license as a bail bondsman has been

1 suspended, revoked, surrendered, or refused, to engage in any acts
2 as a bail bondsman. Any person convicted of violating the
3 provisions of this subsection shall be guilty of a felony and shall
4 be punished by a fine in an amount not to exceed Five Thousand
5 Dollars (\$5,000.00).

6 C. It shall be unlawful for any licensed bail bondsman to
7 employ, seek assistance from or conspire with an unlicensed person
8 or a person whose license as a bail enforcer has been suspended,
9 revoked, surrendered or refused, to engage in any acts as a bail
10 enforcer or bail bondsman. Any person convicted of violating the
11 provisions of this subsection shall be guilty of a felony and shall
12 be punished by a fine in an amount not to exceed Five Thousand
13 Dollars (\$5,000.00).

14 D. The provisions of this section shall not apply to a person
15 who within ninety (90) days of the date their bail bondsman license
16 is suspended or revoked in this state contracts with a licensed bail
17 enforcer pursuant to the Bail Enforcement and Licensing Act to cause
18 the apprehension and surrender of his or her defendant clients to
19 the appropriate authority. The defendant client must have a current
20 undertaking or bail contract with the person whose bail bondsman
21 license is suspended or revoked and such undertaking or bail
22 contract must have been made in this state by the person whose
23 license is now suspended or revoked. No acts other than contracting
24 with a licensed bail enforcer to surrender a defendant client to the

1 appropriate authority shall be authorized or recognized after a bail
2 bondsman license is suspended or revoked.

3 SECTION 3. AMENDATORY Section 13, Chapter 373, O.S.L.
4 2014 (59 O.S. Supp. 2014, Section 1311.4), is amended to read as
5 follows:

6 Section 1311.4 Notwithstanding any provision of the Bail
7 Enforcement and Licensing Act to the contrary, a licensed ~~bondman~~
8 bondsman in this state may seek assistance from, or provide
9 assistance to, another licensed bondsman in this state or another
10 state for purposes of apprehension and surrender of ~~their~~ his or her
11 defendant client whose undertaking or bail contract was written by
12 the licensed bondsman or a bondsman appointed by an insurer doing
13 business in this state; provided, the licensed bondsmen have a
14 continuously valid ~~licensed~~ license for five (5) or more years
15 beginning the effective date of this act. The bondsman licensed in
16 this state shall be required to obtain and maintain proof of the
17 other bondsman's valid license and license duration requirement
18 prior to permitting such person to engage in any act requiring a
19 license in this state.

20 SECTION 4. AMENDATORY 59 O.S. 2011, Section 1327, as
21 amended by Section 23, Chapter 407, O.S.L. 2013 (59 O.S. Supp. 2014,
22 Section 1327), is amended to read as follows:

23 Section 1327. A. At any time before there has been a breach of
24 the undertaking in any type of bail provided herein, the surety or

1 bondsman or a licensed bail enforcer pursuant to a client contract
2 authorized by the Bail Enforcement and Licensing Act may surrender
3 the defendant, or the defendant may surrender himself or herself, to
4 the official to whose custody the defendant was committed at the
5 time bail was taken, or to the official into whose custody the
6 defendant would have been given had he or she been committed. The
7 defendant may be surrendered without the return of premium for the
8 bond if he or she has been guilty of nonpayment of premium, changes
9 address without notifying his or her bondsman, conceals himself or
10 herself, leaves the jurisdiction of the court without the permission
11 of his or her bondsman, or violates his or her contract with the
12 bondsman in any way that does harm to the bondsman, or the surety,
13 or violates his or her obligation to the court. When a bondsman or
14 surety, or a licensed bail enforcer, surrenders a defendant pursuant
15 to this subsection, the bondsman or surety shall file written
16 notification of the surrender. After surrender, and upon filing of
17 written notification of the surrender, the bond shall be exonerated
18 and the clerk shall enter a minute in the case exonerating the bond.

19 B. If the defendant has been placed in custody of another
20 jurisdiction, the district attorney shall direct a hold order to the
21 official, judge or law enforcement agency where the defendant is in
22 custody. All reasonable expenses accrued in returning the defendant
23 to the original court shall be borne by the bondsman who posted the
24 bond with that court. Upon application, the bond in the original

1 court shall be exonerated when the hold order is placed and upon
2 proof of payment of expenses by the bondsman.

3 C. If the defendant has been arrested on new charges and is in
4 the custody of the same jurisdiction in which the bondsman or surety
5 has posted an appearance bond or bonds for the defendant, and the
6 bond or bonds have not been exonerated, and certified copies of
7 bonds are not reasonably available, the bondsman or surety may
8 recommit the defendant to be held in custody on the charges for
9 which the bondsman or surety has previously posted appearance bonds
10 thereon, in accordance with the following procedure:

11 1. On a Recommitment of Defendant by Bondsman form approved by
12 the Administrative Office of the Courts, the bondsman or surety
13 shall personally affix his or her signature to an affidavit
14 attesting to the following:

- 15 a. the defendant is presently in the custody of the
16 jurisdiction in which the bondsman or surety has
17 posted a bond or bonds,
- 18 b. the case number, if any, assigned to each bond,
- 19 c. that the bond or bonds have not been exonerated, and
- 20 d. the specific charges and bond amount or amounts;

21 2. The bondsman or surety shall present the Recommitment of
22 Defendant by Bondsman form to the official in whose custody the
23 defendant is being held, and the official shall detain the defendant
24

1 in his or her custody, thereon, as upon a commitment, and by a
2 certificate in writing acknowledging the surrender; and

3 3. When a bondsman or surety recommits a defendant pursuant to
4 this subsection, the bondsman or surety shall file a written
5 notification thereof to the court, and after such notification, the
6 bond or bonds shall be exonerated, and the clerk shall enter a
7 minute in the case exonerating the bond or bonds.

8 D. When a defendant does appear before the court as required by
9 law and enters a plea of guilty or nolo contendere, is sentenced or
10 a deferred sentence is granted as provided for in Section 991c of
11 Title 22 of the Oklahoma Statutes, or deferred prosecution is
12 granted as provided by law, in such event the undertaking and
13 bondsman and insurer shall be exonerated from further liability.

14 SECTION 5. AMENDATORY 59 O.S. 2011, Section 1350.6, as
15 amended by Section 7, Chapter 407, O.S.L. 2013 (59 O.S. Supp. 2014,
16 Section 1350.6), is amended to read as follows:

17 Section 1350.6. A. Notwithstanding any other provision of law,
18 it shall be unlawful for a bail enforcer to break into and enter the
19 dwelling house of any defendant or third-party for purposes of
20 recovery or attempted recovery of a defendant either:

21 1. By forcibly bursting or breaking the wall, or an outer door,
22 window, or shutter of a window of such house or the lock or bolts of
23 such door, or the fastening of such window or shutter;

24

1 2. By breaking in any other manner, being armed with a weapon
2 or being assisted or aided by one or more persons then actually
3 present; or

4 3. By unlocking an outer door by means of false keys or by
5 picking the lock thereof, or by lifting a latch or opening a window.

6 B. A person violating the provisions of this section shall be
7 guilty of burglary in the first degree and, upon conviction,
8 punished as provided in Section 1436 of Title 21 of the Oklahoma
9 Statutes. Provided, however, the offense and penalty stated in this
10 section shall not apply to a licensed bail enforcer during an active
11 attempt at recovery of a felony defendant and may not apply to a
12 licensed bail enforcer during an active attempt at recovery of a
13 misdemeanor defendant under the following conditions:

14 a. the bail enforcer has first-hand or eyes-on knowledge
15 that the defendant entered the dwelling house during
16 an attempt to recover the defendant and the defendant
17 after reasonable request is refusing to surrender,

18 b. the bail enforcer has first-hand or eyes-on knowledge
19 that the defendant is actually within the dwelling
20 house and after reasonable request is refusing to
21 surrender, or

22 c. the bail enforcer has obtained knowledge confirming
23 beyond a reasonable doubt that the defendant is
24

1 actually within the dwelling house and after
2 reasonable request refuses to surrender; and

3 d. if the defendant is subject to a misdemeanor offense,
4 the defendant has been subject to a prior arrest and
5 release on a bail undertaking which terms or
6 conditions have been breached.

7 For purposes of this subsection, "first-hand knowledge" means
8 information received from direct eye-witness testimony, actual
9 visual contact with and confirmed identification of the defendant by
10 a person who knows the defendant or resides at the dwelling house,
11 or other factual evidence provided directly to the licensed bail
12 enforcer that confirms the identity and presence of the defendant
13 within the dwelling house.

14 The exceptions to the offense and penalty in this section shall
15 not limit or restrict another person within or without the dwelling
16 house, or owning the dwelling house, from taking any action in
17 response to or to defend a forced entry into such dwelling house,
18 including use of a firearm as may be authorized by law. The use of
19 an exception provided in this subsection by a licensed bail enforcer
20 shall be a fact to be determined by the district attorney in
21 considering whether to prosecute an offense under this section. Any
22 person exercising his or her right to respond or protect the
23 dwelling house or its occupants shall not be liable for injury to
24 another who was forcing entry into such dwelling house. An owner or

1 occupant of a dwelling house may seek damages to his or her property
2 in a civil action if such damage resulted from a forced entry by a
3 licensed bail enforcer.

4 SECTION 6. AMENDATORY 59 O.S. 2011, Section 1350.9, as
5 amended by Section 5, Chapter 373, O.S.L. 2014 (59 O.S. Supp. 2014,
6 Section 1350.9), is amended to read as follows:

7 Section 1350.9. A. Except as prohibited by Section 4 1350.3
8 ~~this act~~ title, a bail enforcer license or an armed bail enforcer
9 license may be issued to an applicant meeting the following
10 qualifications. The applicant shall:

11 1. Be a citizen of the United States or an alien legally
12 residing in the United States and have a minimum of six (6) ~~months~~
13 months' legal residence documented in this state or be a citizen of
14 the United States or an alien legally residing in the United States
15 and have a minimum of five (5) years' legal residence documented in
16 another state and approved for a residency waiver by CLEET as
17 authorized by subsection E of this section;

18 2. Be at least twenty-one (21) years of age;

19 3. Have a high school diploma or GED, or offer proof sufficient
20 to CLEET of equivalent GED qualifications, and have successfully
21 completed the training and psychological evaluation requirements for
22 the license applied for, as prescribed by the Council on Law
23 Enforcement Education and Training;

24 4. Be of good moral character;

1 5. Have no final victim protection orders issued in any state
2 as a defendant;

3 6. Have no record of a felony conviction or any expungement or
4 a deferred judgment or suspended sentence for a felony offense,
5 unless at least fifteen (15) years has passed since the completion
6 of the sentence and no other convictions have occurred or are
7 pending. Provided, no person convicted of a felony offense shall be
8 eligible for an armed bail enforcer license;

9 7. Have no record of conviction for assault or battery,
10 aggravated assault or battery, larceny, theft, false pretense,
11 fraud, embezzlement, false personation of an officer, any offense
12 involving moral turpitude, any offense involving a minor as a
13 victim, any nonconsensual sex offense, any offense involving the
14 possession, use, distribution, or sale of a controlled dangerous
15 substance, any offense of driving while intoxicated or driving under
16 the influence of intoxicating substance, any offense involving a
17 firearm, or any other offense as prescribed by the Council.

18 a. If any conviction which disqualifies an applicant
19 occurred more than five (5) years prior to the
20 application date and the Council is convinced the
21 offense constituted an isolated incident and the
22 applicant has been rehabilitated, the Council may, in
23 its discretion, waive the conviction disqualification
24 as provided for in this paragraph and issue an unarmed

1 bail enforcer license, but shall not issue an armed
2 bail enforcer license if the offense involved the use
3 of a firearm, was violent in nature, or was a felony
4 offense other than a driving offense.

5 b. Under oath, the applicant shall certify that he or she
6 has no disqualifying convictions as specified in the
7 Bail Enforcement and Licensing Act or by rule of the
8 Council, or that more than five (5) years have lapsed
9 since the completion of the sentence for a
10 disqualifying conviction.

11 c. The applicant shall further meet all other
12 qualifications, including, but not limited to, the
13 requirement to provide CLEET and the Oklahoma State
14 Bureau of Investigation with individual fingerprints
15 for a state and national criminal history records
16 search and a current individual photograph with the
17 completed CLEET application for a bail enforcer
18 license.

19 d. If upon completion of the required background
20 investigation it is discovered that a disqualifying
21 conviction exists, the Council shall immediately
22 revoke or deny the bail enforcer license of the
23 applicant;
24

1 8. Make a statement that the applicant is not currently
2 undergoing treatment for a mental illness, condition, or disorder,
3 make a statement whether the applicant has ever been adjudicated
4 incompetent or committed to a mental institution, and make a
5 statement regarding any history of illegal drug use or alcohol
6 abuse. Upon presentation by the Council of the name, gender, date
7 of birth, and address of the applicant to the Department of Mental
8 Health and Substance Abuse Services, the Department of Mental Health
9 and Substance Abuse Services shall notify the Council within ten
10 (10) days whether the computerized records of the Department
11 indicate the applicant has ever been involuntarily committed to an
12 Oklahoma state mental institution. For purposes of this subsection,
13 "currently undergoing treatment for a mental illness, condition, or
14 disorder" means the person has been diagnosed by a licensed
15 physician or psychologist as being afflicted with a substantial
16 disorder of thought, mood, perception, psychological orientation, or
17 memory that significantly impairs judgment, behavior, capacity to
18 recognize reality, or ability to meet the ordinary demands of life
19 and such condition continues to exist;

20 9. Make a statement regarding any misdemeanor domestic violence
21 charges;

22 10. Provide proof of liability insurance or an individual bond
23 in a minimum amount established by the Bail Enforcement and
24 Licensing Act; and

1 11. Provide a statement of self-employment as a sole proprietor
2 bail enforcer.

3 B. 1. A bail enforcer shall be required to maintain a physical
4 address and phone number publically available and published in the
5 city or county where the physical address is located. Only a
6 licensed bail enforcer may accept a client contract to perform the
7 services of a bail enforcer.

8 2. A licensed bail enforcer shall be required to maintain
9 complete records of all clients, defendants, and apprehensions, and
10 agree such records shall be available to CLEET for inspection at any
11 time during regular business hours.

12 C. 1. All bail enforcers shall obtain and maintain either a
13 liability insurance policy or a surety bond that allows persons to
14 recover for actionable injuries, loss, or damage as a result of the
15 willful, or wrongful acts or omissions of the licensee and protects
16 this state, its agents, officers, and employees from judgments
17 against the licensee, and is further conditioned upon the faithful
18 and honest conduct of the licensee.

19 2. The liability insurance policy or surety bond required in
20 this subsection shall be in the minimum amount of Ten Thousand
21 Dollars (\$10,000.00).

22 3. Liability insurance policies or bonds issued pursuant to
23 this subsection shall not be modified or canceled unless ten (10)
24 days' prior written notice is given to the Council. All persons

1 insured or bonded pursuant to this subsection shall be insured by an
2 insurance carrier or bonded by a surety company licensed and
3 authorized to do business in the state. Failure to obtain and
4 maintain sufficient liability insurance or bond as provided in the
5 Bail Enforcement and Licensing Act shall be grounds for revocation
6 of a license.

7 D. Upon written notice, any license may be placed on inactive
8 status.

9 E. A person who is a citizen of the United States or an alien
10 legally residing in the United States, who has a minimum of five
11 years' legal residence documented in another state, may seek a
12 residency waiver from CLEET to obtain a license as a bail enforcer
13 in this state upon proper application and documentation; provided,
14 the person meets all other requirements for a bail enforcer in this
15 state. The Council on Law Enforcement Education and Training shall
16 promulgate rules governing residency waivers for licensure in this
17 state. The rules shall require reasonable and sufficient grounds
18 for licensure in this state and may include, but are not limited to,
19 authorizing a licensed bail bondsman from an adjoining state
20 jurisdiction to be licensed in this state as a bail enforcer,
21 authorizing a person from another state to be a licensed bail
22 enforcer in this state when such license would, in the sole
23 discretion of CLEET, be reasonable under the circumstances,
24 determining whether or not persons granted a residency waiver may be

1 licensed in this state as armed bail enforcers, and determining
2 whether or not out-of-state licensees shall be subject to any
3 special duties, protocols or conditions. The Council of Law
4 Enforcement Education and Training shall have absolute discretion to
5 grant, deny, suspend or revoke any out-of-state application, license
6 or residency waiver at any time. Any violation of the Bail
7 Enforcement and Licensing Act or any rules promulgated pursuant
8 thereto shall require prompt disciplinary action by CLEET against
9 the out-of-state person, applicant or licensee.

10 SECTION 7. It being immediately necessary for the preservation
11 of the public peace, health and safety, an emergency is hereby
12 declared to exist, by reason whereof this resolution shall take
13 effect and be in full force from and after its passage and approval.

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