

Senate Substitute for HOUSE BILL No. 2056

By Committee on Corrections and Juvenile Justice

3-12

1 AN ACT concerning bail enforcement agents; relating to licensure by the
2 attorney general; sureties and bail agents; amending K.S.A. 2014 Supp.
3 22-2809a and repealing the existing section.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 New Section 1. As used in sections 1 through 9, and amendments
7 thereto:

8 (a) "Surety" means a person or commercial surety, other than a
9 defendant in a criminal proceeding, that guarantees the appearance of a
10 defendant in a criminal proceeding, by executing an appearance bond.

11 (b) "Bail agent" means a person authorized by a surety to execute
12 surety bail bonds on its behalf.

13 (c) "Bail enforcement agent" means a person not performing the
14 duties of a law enforcement officer who tracks down, captures and
15 surrenders to the custody of a court a fugitive who has violated a surety or
16 bail bond agreement, commonly referred to as a bounty hunter.

17 New Sec. 2. (a) Except as provided in subsection (b), it shall be
18 unlawful for any person to engage in the business of a bail enforcement
19 agent in this state unless such person is licensed as a bail enforcement
20 agent under sections 1 through 9, and amendments thereto.

21 (b) The following persons shall not be deemed to be engaging in the
22 bail enforcement business:

23 (1) A surety, authorized as such in the state of Kansas, who is
24 attempting to enforce a bail bond; or

25 (2) a bail agent attempting to enforce a bail bond.

26 New Sec. 3. (a) Every person desiring to be licensed in Kansas as a
27 bail enforcement agent shall make application to the attorney general. An
28 application for a bail enforcement agent license shall be on a form
29 prescribed by the attorney general and accompanied by the required
30 application fee. An application shall be verified under penalty of perjury
31 and shall include:

32 (1) The full name and business address of the applicant;

33 (2) two photographs of the applicant taken within 30 days before the
34 date of application, of a type prescribed by the attorney general;

35 (3) a statement of the applicant's employment history;

36 (4) a statement of the applicant's criminal history, if any; and

1 (5) one classifiable set of the applicant's fingerprints.

2 (b) (1) Fingerprints submitted pursuant to this section shall be
3 released by the attorney general to the Kansas bureau of investigation for
4 the purpose of conducting criminal history records checks, utilizing the
5 files and records of the Kansas bureau of investigation and the federal
6 bureau of investigation.

7 (2) Each applicant shall be subject to a state and national criminal
8 history records check which conforms to applicable federal standards for
9 the purpose of verifying the identity of the applicant and whether the
10 applicant has been convicted of any crime that would disqualify the
11 applicant from being licensed as a bail enforcement agent under sections 1
12 through 9, and amendments thereto. The attorney general is authorized to
13 use the information obtained from the state and national criminal history
14 records check to determine the applicant's eligibility for such license.

15 (3) Each applicant shall pay a fee for the criminal history records
16 check in an amount necessary to reimburse the attorney general for the
17 cost of the criminal history records check. Such fee shall be in an amount
18 fixed by the attorney general pursuant to section 8, and amendments
19 thereto, and shall be in addition to the applicable original or renewal
20 application fee amount fixed by the attorney general pursuant to section 8,
21 and amendments thereto.

22 (c) In accordance with the summary proceedings provisions of the
23 Kansas administrative procedure act, the attorney general may deny a
24 license if the applicant has:

25 (1) Committed any act which, if committed by a licensee, would be
26 grounds for the suspension or revocation of a license under sections 1
27 through 9, and amendments thereto;

28 (2) been convicted of a felony, unless such conviction has been
29 expunged;

30 (3) while unlicensed, committed or aided and abetted the commission
31 of any act for which a license is required by sections 1 through 9, and
32 amendments thereto; or

33 (4) knowingly made any false statement in the application.

34 (d) The attorney general may charge a fee for initial application forms
35 and materials in an amount fixed by the attorney general pursuant to
36 section 8, and amendments thereto. Such fee shall be credited against the
37 application fee of any person who subsequently submits an application.

38 (e) Every application for an initial or a renewal license shall be
39 accompanied by a fee in an amount fixed by the attorney general pursuant
40 to section 8, and amendments thereto.

41 New Sec. 4. (a) The license, when issued, shall be in such form as
42 may be determined by the attorney general and shall include the:

43 (1) Name of the licensee; and

1 (2) number and date of the license.

2 (b) The license at all times shall be posted in a conspicuous place in
3 the principal place of business of the licensee. Upon the issuance of a
4 license, a pocket card of such size, design and content as determined by
5 the attorney general shall be issued without charge to each licensee. Such
6 card shall be evidence that the licensee is duly licensed pursuant to
7 sections 1 through 9, and amendments thereto. When any licensee
8 terminates such licensee's activities as a bail enforcement agent, or such
9 licensee's license has been suspended or revoked, the card shall be
10 surrendered, within five days after such termination, suspension or
11 revocation, to the attorney general for cancellation. Within 30 days after
12 any change of address or of any change in its officers, directors, partners
13 or associates, a licensee shall notify the attorney general thereof. The
14 principal place of business may be at a residence or at a business address,
15 but it shall be the place at which the licensee maintains a permanent office.

16 New Sec. 5. (a) Any license issued under sections 1 through 9, and
17 amendments thereto, shall expire two years from the date of issuance and
18 may be renewed every two years thereafter. Renewal of any such license
19 shall be made in the manner prescribed for obtaining an original license,
20 including payment of the appropriate fee required by section 8, and
21 amendments thereto, except that:

22 (1) The application for renewal shall provide the information required
23 of original applicants if the information shown on the original application
24 or any renewal thereof on file with the attorney general is no longer
25 accurate;

26 (2) a new photograph and classifiable set of fingerprints shall be
27 submitted with the application for renewal only if the photograph and
28 fingerprints on file with the attorney general has been on file more than
29 four years; and

30 (3) additional information may be required by rules and regulations
31 adopted by the attorney general.

32 (b) A license issued under sections 1 through 9, and amendments
33 thereto, shall not be assignable.

34 New Sec. 6. (a) The attorney general may censure, limit, condition,
35 suspend or revoke a license issued under sections 1 through 9, and
36 amendments thereto, if, after notice and opportunity for hearing in
37 accordance with the provisions of the Kansas administrative procedure act,
38 the attorney general determines that the licensee has:

39 (1) Made any false statement or given any false information in
40 connection with an application for a license or a renewal or reinstatement
41 thereof;

42 (2) violated any provisions of sections 1 through 9, and amendments
43 thereto;

1 (3) been convicted of a felony;

2 (4) committed any act, while the license was expired, which would be
3 cause for the suspension or revocation of a license, or grounds for the
4 denial of an application for a license; or

5 (5) committed any act which is grounds for denial of an application
6 for a license.

7 (b) The record of conviction, or a certified copy thereof, shall be
8 conclusive evidence of such conviction as that term is used in this section
9 or in section 3, and amendments thereto, and a plea or verdict of guilty or a
10 conviction following a plea of nolo contendere is deemed to be a
11 conviction within the meaning thereof.

12 New Sec. 7. (a) The licensing and regulation of bail enforcement
13 agents shall be under the exclusive jurisdiction and control of the attorney
14 general, as provided in sections 1 through 9, and amendments thereto, and
15 no city may adopt any ordinance which provides for the licensing or
16 regulation of bail enforcement agents. Any such ordinance which is so
17 adopted, or which has been adopted on or before July 1, 2015, is hereby
18 declared null and void.

19 (b) The attorney general shall adopt such rules and regulations as may
20 be necessary to carry out the provisions of sections 1 through 9, and
21 amendments thereto.

22 New Sec. 8. (a) In each fiscal year, the attorney general shall
23 determine the amount of funds which will be required during the next
24 ensuing fiscal year to properly administer the laws which the attorney
25 general is directed to enforce and administer relating to the licensure and
26 regulation of bail enforcement agents. The attorney general, by the
27 adoption of rules and regulations, shall fix fees in accordance with this
28 section in such reasonable sums as may be necessary for such purposes.

29 (b) After fixing such fees, the attorney general may charge and collect
30 the fees, in advance for the following purposes, subject to the following
31 limitations:

32 (1) For initial application forms and materials, not to exceed \$15;

33 (2) for application for licensure, not to exceed \$200; and

34 (3) for renewal of license, not to exceed \$175.

35 (c) A duplicate license shall be issued upon the filing of a statement
36 covering the loss of the license and the payment of a fee of \$5 for the
37 issuance of a duplicate license. Each duplicate license shall have the word
38 "duplicate" stamped across the face thereof and shall bear the same
39 number as the original.

40 (d) In addition to the applicable original or renewal application fee
41 amount fixed by the attorney general pursuant to this section, the attorney
42 general may charge and collect a fee from each applicant to conduct a
43 criminal history records check. Such fee shall be in an amount fixed by the

1 attorney general and shall not exceed an amount necessary to reimburse
2 the attorney general for the cost of such criminal history records check.

3 New Sec. 9. The attorney general shall remit all moneys received
4 from fees or charges imposed pursuant to sections 1 through 9, and
5 amendments thereto, to the state treasurer in accordance with the
6 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
7 each such remittance, the state treasurer shall deposit the entire amount in
8 the state treasury to the credit of the bail enforcement agents fee fund,
9 which is hereby created. Moneys in the bail enforcement agents fee fund
10 shall be used solely for the purpose of administering and implementing
11 sections 1 through 9, and amendments thereto, and any other law relating
12 to the licensure and regulation of bail enforcement agents. All expenditures
13 from such fund shall be made in accordance with appropriation acts upon
14 warrants of the director of accounts and reports issued pursuant to
15 vouchers approved by the attorney general or by a person or persons
16 designated by the attorney general.

17 Sec. 10. K.S.A. 2014 Supp. 22-2809a is hereby amended to read as
18 follows: 22-2809a. (a) As used in this section:

19 (1) "Surety" means a person or commercial surety, other than a
20 defendant in a criminal proceeding, that guarantees the appearance of a
21 defendant in a criminal proceeding, by executing an appearance bond;

22 (2) ~~"agent of a surety" means a person not performing the duties of a~~
23 ~~law enforcement officer who tracks down, captures and surrenders to the~~
24 ~~custody of a court a fugitive who has violated a surety or bail bond~~
25 ~~agreement.~~ *"bail agent" means a person authorized by a surety to execute*
26 *surety bail bonds on behalf of such surety; and*

27 (3) *"bail enforcement agent" means a person not performing the duties*
28 *of a law enforcement officer who tracks down, captures and surrenders to*
29 *the custody of a court a fugitive who has violated a surety or bail bond*
30 *agreement, commonly referred to as a bounty hunter, but is not a surety or*
31 *bail agent.*

32 (b) ~~Any surety or agent of a surety, commonly referred to as a bounty~~
33 ~~hunter, bail agent or bail enforcement agent~~ who intends to apprehend any
34 person in this state pursuant to K.S.A. 22-2809, and amendments thereto,
35 or under similar authority from any other state, shall inform law
36 enforcement authorities in the city or county in which such surety ~~or agent~~
37 ~~of a surety, bail agent or bail enforcement agent~~ intends such
38 apprehension, before attempting such apprehension. The surety ~~or agent of~~
39 ~~a surety, bail agent or bail enforcement agent~~ shall present to the local law
40 enforcement authorities a ~~certified~~ copy of the bond, a valid government-
41 issued photo identification, written appointment of agency, if not the actual
42 surety, and all other appropriate paperwork identifying the principal and
43 the person to be apprehended. Local law enforcement may accompany the

1 surety ~~or agent~~, *bail agent or bail enforcement agent.*

2 (c) No person who has been convicted, in this or any other
3 jurisdiction, of a felony shall act as a surety ~~or as an agent of a surety~~, *bail*
4 *agent or bail enforcement agent, unless such conviction has been*
5 *expunged.*

6 (d) *A bail enforcement agent must be licensed under sections 1*
7 *through 9, and amendments thereto, in order to apprehend a person*
8 *pursuant to K.S.A. 22-2809, and amendments thereto.*

9 (e) An out-of-state surety ~~or agent of a surety~~, *bail agent or bail*
10 *enforcement agent* who intends to apprehend any person in this state
11 pursuant to K.S.A. 22-2809, and amendments thereto, or under similar
12 authority from any other state, ~~shall contract with an individual that has~~
13 ~~been authorized by any court in this state to act as a surety or agent of a~~
14 ~~surety, before attempting such apprehension, and be accompanied by such~~
15 ~~individual during such apprehension shall:~~

16 (1) *Have a bail enforcement agent's license pursuant to sections 1*
17 *through 9, and amendments thereto;*

18 (2) *contract with an individual that has been authorized by any court*
19 *in this state to act as a surety and be accompanied by such individual*
20 *during such apprehension; or*

21 (3) *contract with an individual who is currently a licensed bail*
22 *enforcement agent pursuant to sections 1 through 9, and amendments*
23 *thereto, and be accompanied by such individual during such apprehension.*

24 ~~(e)-(f)~~ Violation of this section is a class A nonperson misdemeanor
25 for the first conviction of a violation and a severity level 9, nonperson
26 felony upon a second or subsequent conviction of a violation.

27 Sec. 11. K.S.A. 2014 Supp. 22-2809a is hereby repealed.

28 Sec. 12. This act shall take effect and be in force from and after its
29 publication in the statute book.