

SENATE BILL NO. 400

INTRODUCED BY E. ARNTZEN

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A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS REGARDING BAIL BONDS; ESTABLISHING THE BAIL FUGITIVE RECOVERY AGENTS ACT; ESTABLISHING REQUIREMENTS FOR BAIL BOND AGENTS AND BAIL FUGITIVE RECOVERY AGENTS; REQUIRING A BAIL BOND AGENT OR BAIL FUGITIVE AGENT TO NOTIFY LOCAL LAW ENFORCEMENT PRIOR TO APPREHENDING A DEFENDANT; PROVIDING THAT A PERSON WHO IS LICENSED AS A PRIVATE INVESTIGATOR IS SUBJECT TO THE ACT; AND PROVIDING A PENALTY."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Short title.** [Sections 1 through 8] may be cited as the "Bail Fugitive Recovery Agents Act".

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 8], unless the context clearly requires otherwise, the following definitions apply:

(1) "Bail bond agent" means a person licensed by the commissioner of insurance pursuant to 33-17-211.

(2) "Bail fugitive" means a defendant in a pending criminal case:

(a) who has been released from custody under a financially secured appearance, by payment of cash, or by posting another form of bond and who has had that bond declared forfeited;

(b) who has violated a bond condition under which apprehension and incarceration are permitted; or

(c) for whom the surety feels insecure in accepting liability as provided in 46-9-401(3).

(3) "Bail fugitive recovery agent" means:

(a) a person who is provided written authorization by the bail bond agent or depositor of bail and is contracted with to investigate, keep under surveillance, locate, or arrest a bail fugitive for surrender to the appropriate court, detention facility, or peace officer; and

(b) any person who is employed to assist a bail bond agent or depositor of bail to investigate, keep under surveillance, locate, or arrest a bail fugitive for surrender to the appropriate court, detention facility, or peace officer.



1 (4) "Depositor of bail" means a person or entity who has deposited money or bonds to secure the release
2 of a person charged with a crime or offense.

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4 **NEW SECTION. Section 3. Who may apprehend, detain, or arrest bail fugitive.** (1) A person other
5 than a sworn law enforcement officer may not apprehend, detain, or arrest a bail fugitive unless the person is a
6 bail bond agent, bail fugitive recovery agent, or a depositor of bail.

7 (2) This section does not prohibit the surrender of a defendant or an arrest pursuant to 46-9-401(3) or
8 46-9-510.

9
10 **NEW SECTION. Section 4. Requirements for bail fugitive recovery agent.** (1) A bail fugitive recovery
11 agent or a bail bond agent who contracts with another bail bond agent or surety as a bail fugitive recovery agent
12 and who engages in the arrest of a defendant shall comply with the following requirements:

- 13 (a) the person must be at least 18 years of age;
- 14 (b) the person shall complete a 40-hour course of basic training for bail bond agents and be certified by
15 the commissioner of insurance; and
- 16 (c) the person may not have been convicted of a felony or of any offense in which a dangerous weapon
17 was used.

18 (2) Completion of the course required in subsection (1)(b) is for educational purposes only and does not
19 confer upon the person the power of arrest of a police officer or public officer or agent of any federal, state, or
20 local government agency unless the person is employed by a government agency.

21 (3) Upon completion of a course required by this section, a bail fugitive recovery agent or bail bond agent
22 who contracts with another bail bond agent or surety as a bail fugitive recovery agent shall carry a certificate of
23 completion at all times in the course of performing duties under [sections 1 through 8].

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25 **NEW SECTION. Section 5. Documentation of authority.** Before apprehending a bail fugitive, a person
26 authorized by [section 3] to apprehend a bail fugitive must have in the person's possession proper documentation
27 of authority to apprehend issued by the bail bond agent or depositor of bail. The documentation must include the
28 following information:

- 29 (1) the name of the person authorized by [section 3] to apprehend a bail fugitive;
- 30 (2) the address of the principal office of the person authorized in [section 3] to apprehend a bail fugitive;

1 and

2 (3) the name and principal business address of the bail bond agency, surety company, or other party
3 contracting with the person authorized by [section 3] to apprehend a bail fugitive.

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5 **NEW SECTION. Section 6. Notification of local law enforcement.** (1) Except under exigent
6 circumstances, a person authorized by [section 3] to apprehend a bail fugitive shall, prior to but no more than 6
7 hours before attempting to apprehend the bail fugitive, notify the local police department or sheriff's department
8 of the intent to apprehend a bail fugitive in that jurisdiction by stating:

9 (a) the name of the person authorized by [section 3] to apprehend a bail fugitive in the jurisdiction; and
10 (b) the name and approximate location of the bail fugitive.

11 (2) If an exigent circumstance arises and prior notification is not given as provided in subsection (1), a
12 person authorized by [section 3] to apprehend a bail fugitive shall notify the local police department or sheriff's
13 department immediately after the apprehension and, upon request of the local jurisdiction, shall submit a detailed
14 explanation of the exigent circumstances within 3 working days after the apprehension is made.

15 (3) For the purposes of this section, notice may be provided to a local law enforcement agency by
16 telephone prior to the arrest or, if exigent circumstances exist, after the arrest has taken place. In the case of
17 exigent circumstances, the bail bond agent, bail fugitive recovery agent, or depositor of bail shall obtain and retain
18 the name or operator number of the employee receiving the notice information.

19 (4) This section does not preclude a person authorized to apprehend a bail fugitive from making or
20 attempting to make a lawful arrest of a bail fugitive on bond pursuant to 46-9-510. The fact that a bench warrant
21 is not located in or entered into a warrant depository or system may not affect the lawful arrest of a bail fugitive.

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23 **NEW SECTION. Section 7. No exemption for person otherwise licensed as private investigator.**
24 Nothing in [sections 1 through 8] exempts a person who is licensed as a private investigator from the
25 requirements of [sections 1 through 8].

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27 **NEW SECTION. Section 8. Penalty.** A person who violates [sections 1 through 8] or hires a person
28 to apprehend a bail fugitive knowing that the person is not authorized under [section 3] to apprehend a bail
29 fugitive is guilty of a misdemeanor and punishable by a fine of \$500.

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