

CHAPTER 255

PROFESSIONS AND OCCUPATIONS

HOUSE BILL 98-1224

BY REPRESENTATIVES Lawrence, Dean, Epps, Hefley, Sullivant, and S. Williams;
also SENATORS Arnold and Chlouber.

AN ACT

CONCERNING BAIL RECOVERY, AND, IN CONNECTION THEREWITH, PROHIBITING A BAIL BONDING AGENT FROM HIRING, CONTRACTING WITH, OR PAYING COMPENSATION TO AN INDIVIDUAL FOR BAIL RECOVERY SERVICES UNLESS CERTAIN REQUIREMENTS ARE MET, AND MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 12-7-101, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

12-7-101. Definitions. As used in this article, unless the context otherwise requires:

(1.5) "BAIL RECOVERY" MEANS ACTIONS TAKEN BY A PERSON OTHER THAN A PEACE OFFICER TO APPREHEND AN INDIVIDUAL OR TAKE AN INDIVIDUAL INTO CUSTODY BECAUSE OF THE FAILURE OF SUCH INDIVIDUAL TO COMPLY WITH BAIL BOND REQUIREMENTS.

SECTION 2. 12-7-102.5 (1), Colorado Revised Statutes, is amended to read:

12-7-102.5. Prelicensure education requirements - exemptions. (1) As a condition of initial licensure and qualification as a bail bonding agent, the commissioner shall require each applicant to submit evidence of satisfactory completion of an approved prelicensure education or training course. Such education or training shall consist of at least:

(a) Eight clock hours REGARDING BAIL BONDING, two of which shall concern the criminal court system, two of which shall concern bail bond industry ethics, and four of which shall concern the laws relating to bail bonds; AND

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(b) FOR PERSONS APPLYING FOR LICENSURE ON OR AFTER JANUARY 1, 1999, TRAINING IN BAIL RECOVERY PRACTICES NOT TO EXCEED SIXTEEN CLOCK HOURS. SUCH TRAINING SHALL COMPLY WITH THE STANDARDS ESTABLISHED BY THE PEACE OFFICERS STANDARDS AND TRAINING BOARD PURSUANT TO SECTION 24-31-303 (1) (h), C.R.S.

SECTION 3. Article 7 of title 12, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

12-7-105.5. Bail recovery services - requirements. (1) ON OR AFTER OCTOBER 1, 1998, PRIOR TO HIRING, CONTRACTING WITH, OR PAYING ANY COMPENSATION TO ANY INDIVIDUAL OTHER THAN ANOTHER LICENSED BAIL BONDING AGENT FOR BAIL RECOVERY SERVICES, A LICENSED BAIL BONDING AGENT SHALL TAKE ALL OF THE FOLLOWING ACTIONS:

(a) THE AGENT SHALL CONTACT THE COLORADO BUREAU OF INVESTIGATION PURSUANT TO THE REQUIREMENTS OF SUBSECTION (3) OF THIS SECTION TO CONFIRM THAT THE PERSON HAS SUBMITTED FINGERPRINTS TO THE BUREAU FOR A CRIMINAL BACKGROUND CHECK AND TO CONFIRM THAT SUCH PERSON HAS NOT BEEN CONVICTED OF OR PLED GUILTY OR NOLO CONTENDERE TO ANY FELONY UNDER FEDERAL OR STATE LAW.

(b) FOR EMPLOYMENT COMMENCING ON OR AFTER JANUARY 1, 1999, THE AGENT SHALL OBTAIN A COPY OF A CERTIFICATE OF TRAINING FROM THE INDIVIDUAL INDICATING THAT SUCH INDIVIDUAL HAS RECEIVED TRAINING IN BAIL FUGITIVE APPREHENSION FROM A PRIVATE BAIL RECOVERY PROGRAM OR AN ACCREDITED INSTITUTION OF HIGHER EDUCATION. SUCH TRAINING SHALL COMPLY WITH THE STANDARDS ESTABLISHED BY THE PEACE OFFICERS STANDARDS AND TRAINING BOARD PURSUANT TO SECTION 24-31-303 (1) (h), C.R.S., AND SHALL NOT EXCEED SIXTEEN CLOCK HOURS.

(c) THE AGENT SHALL OBTAIN A STATEMENT FROM THE INDIVIDUAL ATTESTING, UNDER PENALTY OF PERJURY, THAT SUCH PERSON IS PROVIDING TRUE AND COMPLETE INFORMATION TO THE BAIL BONDING AGENT.

(2) ANY INDIVIDUAL WHO WISHES TO BE EMPLOYED BY A LICENSED BAIL BONDING AGENT TO PERFORM BAIL RECOVERY SERVICES SHALL HAVE HIS OR HER FINGERPRINTS TAKEN BY A LOCAL LAW ENFORCEMENT AGENCY FOR THE PURPOSES OF OBTAINING A BACKGROUND CHECK. THE INDIVIDUAL IS REQUIRED TO SUBMIT PAYMENT BY CERTIFIED CHECK OR MONEY ORDER FOR THE FINGERPRINTS AND FOR THE BACKGROUND CHECK AT THE TIME THE FINGERPRINTS ARE TAKEN. ANY PERSON WHO WISHES TO COMPLETE THE BACKGROUND CHECK PROCESS BY THE TIME THAT BACKGROUND CHECKS ARE REQUIRED FOR EMPLOYMENT ON OCTOBER 1, 1998, SHALL SUBMIT A SET OF FINGERPRINTS TO A LOCAL LAW ENFORCEMENT AGENCY ON OR BEFORE JULY 1, 1998.

(3) UPON RECEIPT OF FINGERPRINTS FROM A LAW ENFORCEMENT AGENCY AND THE PAYMENT FOR COSTS REQUIRED BY SUBSECTION (2) OF THIS SECTION, THE COLORADO BUREAU OF INVESTIGATION SHALL UTILIZE SUCH FINGERPRINTS, THE BUREAU'S FILES AND RECORDS, AND THE FILES AND RECORDS OF THE FEDERAL BUREAU OF INVESTIGATION FOR THE PURPOSE OF DETERMINING WHETHER THE INDIVIDUAL HAS

BEEN CONVICTED OF OR PLED GUILTY OR NOLO CONTENDERE TO ANY FELONY UNDER FEDERAL OR STATE LAW DURING THE PREVIOUS FIFTEEN YEARS. THE BUREAU SHALL ESTABLISH AND MAINTAIN FILES REGARDING THE CRIMINAL BACKGROUNDS OF PERSONS SEEKING TO PROVIDE BAIL RECOVERY SERVICES.

(4) (a) ON OR AFTER OCTOBER 1, 1998, A LICENSED BAIL BONDING AGENT MAY NOT HIRE, CONTRACT WITH, OR PAY ANY COMPENSATION TO ANY INDIVIDUAL FOR BAIL RECOVERY SERVICES IF THE INQUIRY TO THE COLORADO BUREAU OF INVESTIGATION REQUIRED BY PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION INDICATES THAT THE BUREAU HAS NOT COMPLETED A BACKGROUND CHECK ON THE INDIVIDUAL OR IF THE BAIL BONDING AGENT KNOWS, THROUGH THE INQUIRY TO THE COLORADO BUREAU OF INVESTIGATION OR THROUGH ANY OTHER SOURCE, THAT SUCH INDIVIDUAL HAS BEEN CONVICTED OF OR PLED GUILTY OR NOLO CONTENDERE TO A FELONY UNDER FEDERAL OR STATE LAW DURING THE PREVIOUS FIFTEEN YEARS.

(b) BEGINNING NO LATER THAN OCTOBER 1, 1998, THE COLORADO BUREAU OF INVESTIGATION SHALL ACCEPT INQUIRIES FROM LICENSED BAIL BONDING AGENTS REGARDING THE CRIMINAL BACKGROUND RECORDS OF INDIVIDUALS SEEKING EMPLOYMENT TO PERFORM BAIL RECOVERY SERVICES. A BAIL BONDING AGENT SHALL PAY THE COST OF EACH INQUIRY MADE TO THE BUREAU THROUGH SUCH PAYMENT METHOD AS IS ESTABLISHED BY THE BUREAU. UPON RECEIVING AN INQUIRY, THE BUREAU SHALL INFORM THE BAIL BONDING AGENT WHETHER A BACKGROUND CHECK HAS BEEN COMPLETED FOR THE INDIVIDUAL AND, IF SO, WHETHER, ACCORDING TO THE RECORD ESTABLISHED BY THE BUREAU, SUCH PERSON HAS BEEN CONVICTED OF OR PLED GUILTY OR NOLO CONTENDERE TO A FELONY UNDER FEDERAL OR STATE LAW DURING THE PREVIOUS FIFTEEN YEARS. PRIOR TO PROVIDING INFORMATION UNDER THE PROVISIONS OF THIS SECTION, THE BUREAU SHALL REQUIRE A PERSON MAKING AN INQUIRY TO PROVIDE THE NAME OF THE BAIL BONDING AGENT AND SUCH AGENT'S LICENSE NUMBER.

(5) THE COLORADO BUREAU OF INVESTIGATION, ANY LOCAL LAW ENFORCEMENT AGENCY, AND ANY INDIVIDUAL EMPLOYED BY THE BUREAU OR A LOCAL LAW ENFORCEMENT AGENCY SHALL NOT BE LIABLE FOR ANY DAMAGES THAT MAY RESULT FROM GOOD FAITH COMPLIANCE WITH THE PROVISIONS OF THIS SECTION.

SECTION 4. 12-7-106 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

12-7-106. Denial, suspension, revocation, and refusal to renew license - hearing - alternative civil penalty. (1) The division shall deny, suspend, revoke, or refuse to renew, as may be appropriate, the license of any person engaged in the business of bail bonding agent for any of the following reasons:

(j) HIRING, CONTRACTING WITH, OR PAYING COMPENSATION TO ANY INDIVIDUAL FOR BAIL RECOVERY SERVICES IN VIOLATION OF THE PROVISIONS OF SECTION 12-7-105.5.

SECTION 5. 20-1-103, Colorado Revised Statutes, is amended to read:

20-1-103. Collect forfeited recognizances. It is the exclusive duty of the district attorney to ~~collect~~ PROVIDE FOR THE COLLECTION OF forfeited recognizances and turn

the money so collected into the registry of the court declaring the forfeiture. IN FULFILLING SUCH DUTY, THE DISTRICT ATTORNEY MAY CONTRACT WITH ANY PERSON OR ENTITY AND PROVIDE FOR PAYMENT OF ANY FEES AND COSTS FOR THE SERVICES OF SUCH PERSON OR ENTITY OUT OF SUCH MONEYS COLLECTED.

SECTION 6. 24-31-303 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-31-303. Duties - powers of the P.O.S.T. board. (1) The P.O.S.T. board has the following duties:

(h) TO ESTABLISH STANDARDS FOR TRAINING IN BAIL RECOVERY PRACTICES UNDER SECTIONS 12-7-102.5 (1) (b) AND 12-7-105.5 (1) (b), C.R.S. THE BOARD SHALL ESTABLISH SUCH STANDARDS ON OR BEFORE OCTOBER 1, 1998.

SECTION 7. 24-33.5-412 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-33.5-412. Functions of bureau - legislative review. (1) The bureau has the following authority:

(p) TO CONDUCT A CRIMINAL BACKGROUND CHECK OF AN APPLICANT WHO WISHES TO PROVIDE BAIL RECOVERY SERVICES FOR A BAIL BONDING AGENT UNDER SECTION 12-7-105.5 (1) (a), C.R.S.

SECTION 8. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the reserves of the P.O.S.T. board cash fund created in section 24-31-303 (2) (b), Colorado Revised Statutes, not otherwise appropriated, to the department of law, for allocation to the peace officers standards and training board, for the fiscal year beginning July 1, 1998, the sum of one thousand dollars (\$1,000), or so much thereof as may be necessary, for the implementation of this act.

SECTION 9. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 27, 1998