

ASSEMBLY BILL

No. 2043

Introduced by Assembly Member Jones-Sawyer

February 14, 2022

An act to amend Sections 1800, 1801, 1802, 1802.1, 1810.7, 1810.8, 1811, and 1815 of, and to add Section 1802.3 to, the Insurance Code, and to amend Sections 1299.01 and 1299.02 of, and to repeal and add Section 1299.04 of, the Penal Code, relating to bail bonds.

LEGISLATIVE COUNSEL'S DIGEST

AB 2043, as introduced, Jones-Sawyer. Bail bonds.

(1) Existing law, the Bail Fugitive Recovery Persons Act, regulates bail fugitive recovery persons, defined as a person given written authorization by the bail or depositor of bail and contracted to investigate, surveil, locate, and arrest a bail fugitive and any person employed to assist the bail or depositor of bail to investigate, surveil, locate, and arrest a bail fugitive. Existing law prohibits an insurer from executing an undertaking of bail except by and through a person holding a bail license, as specified.

Existing law provides for the issuance of bail licenses under the jurisdiction of the Insurance Commissioner. Under existing law, bail licenses include bail agent licenses, bail permittee licenses, and bail solicitor licenses. Existing law requires the commissioner to charge and collect specified fees for an application for a new or renewed bail license by a bail agent, bail permittee, or bail solicitor.

This bill would include bail fugitive recovery person licenses in the list of bail licenses and would prohibit a person from performing the activities of a bail fugitive recovery person unless the person holds a license, as specified. The bill would exempt an individual holding a

bail agent's, bail permittee's, or bail solicitor's license from a bail fugitive recovery person's licensing requirements.

(2) Existing law permits a bail agent licensee to solicit, negotiate, and effect undertakings of bail on behalf of any surety insurer while an unrevoked notice of appointment, as specified, has been filed.

This bill would also permit a bail fugitive recovery person licensee to perform the same actions on behalf of any surety insurer and under the same conditions as a bail agent licensee.

(3) Existing law requires an applicant for a license to act as a bail agent to file with the commissioner a notice of appointment executed by a surety insurer or its authorized representative authorizing that applicant to execute undertakings of bail and to solicit and negotiate those undertakings on its behalf. Existing law allows a notice of appointment to continue in force until the occurrence of 3 specified events.

This bill would also require an applicant for a bail fugitive recovery person's license to file a notice of appointment with the commissioner, and would allow a notice of appointment to continue in force until the termination of a bail fugitive recovery person's license, the end of the license term, as specified, or the filing of a notice of termination by the insurer, its representative, or the bail fugitive recovery person.

(4) Existing law allows the commissioner to issue a temporary license to the executor or administrator of a deceased holder of a bail agent's or bail permittee's license.

This bill would allow the commissioner to issue a temporary license to the executor or administrator of the estate of a deceased holder of a bail fugitive recovery person's license.

(5) Existing law requires the commissioner to charge and collect specified fees for an application for a new or renewed bail license by a bail agent, bail permittee, or bail solicitor. Under existing law, the fee for an application or request for a bail agent's or bail solicitor's license is \$283. Existing law establishes the fee for a bail permittee's license at \$567, and establishes other fees for renewal applications, fictitious name statements, bond filings, and amendments of applications, as specified.

The bill would require the commissioner to collect an annual fee of \$311 to file an application for a bail fugitive recovery person's license, and would increase the application fee for a bail agent's or bail solicitor's license to \$311. The bill would also increase the application

fee for a bail permittee's license to \$624. The bill would increase the fees to file other applications and documents, as specified.

(6) Existing law requires the commissioner to publish and maintain a list of holders of certain licenses, as specified.

This bill would require the commissioner to publish and maintain a list of holders of bail fugitive recovery person's licenses on the department's website, along with the license numbers.

(7) Existing law requires certain persons contracting their services as a bail fugitive recovery person and certain licensees who engage in the arrest of a defendant to comply with various requirements, including being at least 18 years of age and completing various courses and classes.

This bill would require a bail fugitive recovery person, a bail agent, a bail permittee, or bail solicitor who contracts their services as a bail fugitive recovery person and a bail agent, bail permittee, or bail solicitor who engages in the arrest of a defendant to instead comply with specified provisions of the Insurance Code and any regulations promulgated by the commissioner.

(8) Existing law requires an applicant, prior to taking an examination for a bail license, to complete a minimum of 20 hours of classroom education pertaining to the duties and responsibilities of a bail licensee. Existing law requires a licensee to complete in each 2-year license term not fewer than 12 hours of continuing education in these subjects prior to renewal of their license.

The bill would include an additional requirement, prior to taking an examination for a bail license, of completing a 40-hour power of arrest course, and would clarify that the completion of the course would be for educational purposes only and not intended to confer the power of arrest unless the person is employed by a governmental agency to make arrests.

(9) Existing law prohibits a person, other than a certified law enforcement officer, to apprehend, detain, or arrest a bail fugitive unless the person is a specified bail licensee, bail fugitive recovery person, a private investigator licensed in this state, or holds a specified license in another state. Existing law makes a violation of the Bail Fugitive Recovery Persons Act a misdemeanor, punishable by a fine of \$5,000, or imprisonment in a county jail not to exceed one year, or both that fine and imprisonment.

This bill would prohibit a private investigator licensed in this state from apprehending, detaining, or arresting a bail fugitive. The bill would

prohibit a licensed bail agent or bail fugitive recovery person from engaging in any of the duties, as specified, performed by a private investigator unless the person was also licensed as a private investigator. By increasing the scope of an existing crime and by creating a new crime, the bill would impose a state-mandated local program.

(10) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1800 of the Insurance Code is amended
2 to read:

3 1800. (a) An insurer shall not execute an undertaking of bail
4 except by and through a person holding a bail license issued as
5 provided in this chapter. A person shall not in this state solicit or
6 negotiate in respect to execution or delivery of an undertaking of
7 bail or bail bond by an insurer, or execute or deliver such an
8 undertaking of bail or bail bond unless licensed as provided in this
9 chapter, but if so licensed, such person may so solicit, negotiate,
10 and effect such undertakings or bail bonds without holding or being
11 named in any license specified in Chapter 5 of this part.

12 *(b) A person shall not perform in this state the activities of a*
13 *bail fugitive recovery person, as defined in subdivision (d) of*
14 *Section 1299.01 of the Penal Code, or solicit or negotiate to*
15 *perform the activities of a bail fugitive recovery person, as defined*
16 *in subdivision (d) of Section 1299.01 of the Penal Code, unless*
17 *licensed pursuant to this chapter. If a person is licensed as a*
18 *fugitive recovery person, they may solicit, negotiate, and perform*
19 *those activities without holding or being named in any license*
20 *specified in Chapter 5 of this part.*

21 ~~(b)~~

22 (c) For purposes of this section, “solicit” shall include any
23 written or printed presentation or advertising made by mail or other
24 publication, or any oral presentation or advertising by means of
25 telephone, radio, or television which implies that an individual is

1 licensed under this chapter, and any activity in arranging for bail
2 which results in remuneration to the individual conducting that
3 activity.

4 SEC. 2. Section 1801 of the Insurance Code is amended to
5 read:

6 1801. Bail licenses are:

- 7 (a) Bail agents' licenses;
- 8 (b) Bail permittees' licenses;
- 9 (c) Bail solicitors' ~~licenses~~ licenses;
- 10 (d) *Bail fugitive recovery person licenses*.

11 SEC. 3. Section 1802 of the Insurance Code is amended to
12 read:

13 1802. A bail agent's *or bail fugitive recovery person's* license
14 by its terms permits the licensee to solicit, negotiate, and effect
15 undertakings of bail on behalf of any surety insurer while there is
16 in effect an unrevoked notice of appointment of such insurer filed
17 pursuant to Section 1802.1. Such license shall not be issued unless
18 and until there is filed with the commissioner a bond having an
19 admitted surety insurer as surety thereon in the penal sum of one
20 thousand dollars (\$1,000), conditioned upon the proper application
21 and disposal of all moneys collected or received by the bail agent,
22 his solicitors licensed pursuant to his appointment, and his
23 employees, in favor of the people of the State of California.

24 SEC. 4. Section 1802.1 of the Insurance Code is amended to
25 read:

26 1802.1. Every applicant for a license to act as a bail agent *or*
27 *a bail fugitive recovery person* shall file with the commissioner a
28 notice of appointment executed by a surety insurer or its authorized
29 representative authorizing that applicant to execute undertakings
30 of bail and to solicit and negotiate those undertakings on its behalf.
31 Additional notices of appointment may be filed by other surety
32 insurers, upon the payment for each additional notice of the fees
33 specified in subdivision (a) of Section 1811, before the license is
34 issued and thereafter, as long as the license remains in force. Each
35 appointment shall, by its terms, continue in force until any of the
36 following occur:

37 (a) Termination of the bail agent's *or a bail fugitive recovery*
38 *person's* license.

39 (b) The end of the license term, if the fee provided in subdivision
40 ~~(e)~~ (f) of Section 1811 for filing a renewal application is not paid.

(c) The filing of a notice of termination by the insurer, its representative, or by the bail ~~agent~~ *or the bail fugitive recovery person*.

SEC. 5. Section 1802.3 is added to the Insurance Code, to read:
1802.3. (a) A bail fugitive recovery person's license, by its terms, permits the licensee to engage in the activities of a bail fugitive recovery person as set forth in subdivision (d) of Section 1299.01 of the Penal Code.

(b) A bail fugitive recovery person licensee shall comply with the Bail Fugitive Recovery Persons Act (commencing with Section 1299) of the Penal Code.

(c) Notwithstanding subdivision (b) of Section 1810, only natural persons may be licensed as bail fugitive recovery persons.

(d) An individual who holds a license pursuant to Section 1802, 1802.5, or 1803, shall be exempt from the bail fugitive recovery persons licensing requirements. A bail agent, permittee, or solicitor shall disclose to the department if they are also a bail fugitive recovery person on their license application and renewal.

SEC. 6. Section 1810.7 of the Insurance Code is amended to read:

1810.7. (a) In order to be eligible to take the examination required to be licensed under this chapter, the applicant shall have completed ~~a~~ *the following*:

(1) A minimum of 20 hours of classroom education in subjects pertinent to the duties and responsibilities of a bail licensee, including, but not limited to, all related laws and regulations, rights of the accused, ethics, and apprehension of bail fugitives. ~~Additionally, a licensee shall complete in~~

(2) A 40-hour power of arrest course certified by the Commission on Peace Officer Standards and Training pursuant to Section 832 of the Penal Code. Completion of the course shall be for educational purposes only and not intended to confer the power of arrest of a peace officer or public officer, or agent of any federal, state, or local government, unless the person is so employed by a governmental agency.

(3) In each two-year license term not less than 12 hours of continuing education in these subjects prior to renewal of ~~his or her~~ *their* license.

(b) The commissioner shall approve or disapprove an applicant to provide education for licensure as required by this section within

1 90 days of receipt of the applicant's full and complete application.
2 However, this 90-day period shall be tolled during the pendency
3 of any investigation of the applicant by the commissioner for an
4 alleged violation that would, if proven, result in the suspension,
5 revocation, or denial of the provider's approval to provide
6 continuing education to bail agents as prescribed in Section 1813.
7 Failure to disapprove an applicant within this period shall result
8 in the automatic approval of the application. Approval shall be
9 valid for two years. The commissioner may, at any time, disapprove
10 any provider who is not qualified or whose course outlines are not
11 approved, who is not of good business reputation, or who is lacking
12 in integrity, honesty, or competency. A provider shall not provide
13 education for licensure following the expiration of the two-year
14 approval period unless the commissioner has renewed the
15 provider's approval. The commissioner shall, at the time of
16 renewal, approve or disapprove the course outlines and schedule
17 of classes to be provided.

18 (c) Providers responsible for providing education for licensure
19 under this chapter shall consult with the California State Sheriffs'
20 Association, the California District Attorneys Association, and the
21 County Counsels Association of California prior to submission of
22 the course outlines for approval by the commissioner, and these
23 entities may respond within 30 days of receipt of a request for
24 consultation from a provider. Providers shall maintain records of
25 their requests for consultation and any responses from these
26 entities, and make these records available to the department for
27 review as requested. The bail license fee shall be increased, the
28 amount of which shall be determined by the commissioner, which
29 shall be deposited in the Insurance Fund for the purposes of
30 recovering the administrative costs for meeting the conditions and
31 purposes of this section. Providers of education or continuing
32 education shall offer courses to all applicants at the same course
33 fees.

34 (d) Any person who falsely represents to the commissioner that
35 compliance with this section has been met shall be subject, after
36 notice and hearing, to the penalties and fines set out in Section
37 1814.

38 (e) A licensee shall not be required to comply with the
39 continuing education requirements of this section if the licensee
40 submits proof satisfactory to the commissioner that ~~he or she has~~

1 *they have* been a licensee in good standing for 30 continuous years
2 in this state and is 70 years of age or older.

3 (f) The commissioner may make reasonable rules and regulations
4 necessary, advisable, and convenient for the administration and
5 enforcement of this chapter. The rules and regulations may include
6 a schedule establishing fees to be paid by an applicant seeking
7 approval to act as a provider and to deliver courses under this
8 section. Those fees shall be in an amount no greater than fees paid
9 by applicants providing similar courses to other insurance agents
10 licensed by the department, as specified in Section 1751.1.

11 (g) Nothing in this chapter shall preclude completion of the bail
12 agent continuing education requirements of this section through a
13 course of instruction offered via the Internet or correspondence.
14 However, this subdivision shall not be construed to allow
15 completion of the prelicensing education requirements of this
16 section through a course of instruction.

17 (h) Successful completion of the continuing education
18 requirements by means of an Internet or correspondence course
19 shall require obtaining a passing grade of at least 70 percent on a
20 written final examination. The final examination shall be open
21 book and shall be graded by the approved provider. The provider
22 shall issue certificates of completion only to those students who
23 have passed the final examination.

24 SEC. 7. Section 1810.8 of the Insurance Code is amended to
25 read:

26 1810.8. The commissioner may issue a temporary license to
27 the executor or administrator of the estate of a deceased holder of
28 a bail agent's ~~license or~~ license, bail permittee's license, *or bail*
29 *fugitive recovery person's license*, permitting such party to act as
30 such representative to exercise the rights and privileges of such a
31 license holder for the purpose of conducting the business of the
32 estate for a period of one year from and after the date of the death,
33 pending, but not after, the disposal of the business.

34 SEC. 8. Section 1811 of the Insurance Code is amended to
35 read:

36 1811. ~~For his or her~~ *the individual's* services in connection
37 with the filing of any application or request for any license under
38 this chapter, the commissioner shall charge and collect the
39 following fees:

(a) For filing an application or request for bail agent's license, ~~two hundred eighty-three dollars (\$283)~~ *three hundred eleven dollars (\$311)* per year.

(b) For filing an application or request for bail solicitor's license, ~~two hundred eighty-three dollars (\$283)~~ *three hundred eleven dollars (\$311)* per year.

(c) For filing an application or request for bail permittee's license, ~~five hundred sixty-seven dollars (\$567)~~ *six hundred twenty-four dollars (\$624)*.

(d) *For filling an application or request for bail fugitive recovery person's license, three hundred eleven dollars (\$311) per year.*

~~(d)~~

(e) For filing an application for examination, or reexamination, ~~fifty-six dollars (\$56)~~ *sixty-two dollars (\$62)*.

~~(e)~~

(f) For a renewal application, a fee of ~~eighty-five dollars (\$85)~~ *ninety-four dollars (\$94)* per year. In the case of a bail agent with more than one valid notice of appointment on file, the fee to be charged pursuant to this subdivision shall be the fee provided herein multiplied by the number of insurers whose valid appointments are on file on the date the document is filed unless the bail agent in that document advises the commissioner of ~~his~~ *or her the individual's* intent to terminate the appointment of one or more of those insurers, in which event the fee shall be based upon the number for insurers remaining.

~~(f)~~

(g) For a bail solicitor's renewal application, a fee of ~~eighty-five dollars (\$85)~~ *ninety-four dollars (\$94)* per year.

~~(g)~~

(h) For a bail permittee's renewal application, a fee of ~~three hundred fifty-eight dollars (\$358)~~ *ninety-four dollars (\$394)* per year.

(i) *For a bail fugitive recovery person's renewal application, a fee of ninety-four dollars (\$94) per year.*

~~(h)~~

(j) At the time of filing an application for a license, if a qualifying examination is required for issue or in connection with the license, the fee for filing the first application to take the qualifying examination shall be paid at the time of filing application for the license.

1 ~~(i)~~

2 ~~(k)~~ For filing application or request for approval of a true or
3 fictitious name pursuant to Section 1724.5, ~~twenty-nine dollars~~
4 ~~(\$29)~~, *thirty-two dollars (\$32)*, except that there shall be no fee
5 when the name is contained in an original application.

6 ~~(j)~~

7 ~~(l)~~ For filing a bond required by this chapter, except when the
8 bond constitutes part of an original application, ~~twenty-five dollars~~
9 ~~(\$25)~~, *twenty-eight dollars (\$28)*.

10 ~~(k)~~

11 ~~(m)~~ For filing a first amendment to an application, ~~fourteen~~
12 ~~dollars (\$14)~~, *fifteen dollars (\$15)*.

13 ~~(t)~~

14 ~~(n)~~ For filing a second and each subsequent amendment to an
15 application, ~~twenty-nine dollars (\$29)~~, *thirty-two dollars (\$32)*.

16 SEC. 9. Section 1815 of the Insurance Code is amended to
17 read:

18 1815. The commissioner shall publish and maintain a list of
19 the names of holders of bail agents' and bail permittees' licenses
20 and their solicitors *and bail fugitive recovery persons' licenses* on
21 the department's public ~~Web site~~, *website*, together with their
22 license numbers and any other information in respect to the persons
23 ~~as he or she~~ *the commissioner* considers advisable. ~~He or she~~ *The*
24 *commissioner* shall promptly upon termination, for any cause, of
25 any license, update the department's public ~~Web site~~, *website*.

26 SEC. 10. Section 1299.01 of the Penal Code is amended to
27 read:

28 1299.01. For purposes of this article, the following terms shall
29 have the following meanings:

30 (a) "Bail fugitive" means a defendant in a pending criminal case
31 who has been released from custody under a financially secured
32 appearance, cash, or other bond and has had that bond declared
33 forfeited, or a defendant in a pending criminal case who has
34 violated a bond condition whereby apprehension and
35 reincarceration are permitted.

36 (b) "Bail" means ~~a person~~ *bail agent, bail permittee, or bail*
37 *solicitor* licensed by the Department of Insurance pursuant to
38 ~~Section 1800~~ *Section 1802, 1802.5, or 1803* of the Insurance Code.

1 (c) “Depositor of bail” means a person who or entity that has
2 deposited money or bonds to secure the release of a person charged
3 with a crime or offense.

4 (d) “Bail fugitive recovery person” means a person *licensed*
5 *pursuant to Section 1802.3 of the Insurance Code* who is provided
6 written authorization pursuant to Sections 1300 and 1301 by the
7 bail or depositor of bail, and is contracted to investigate, surveil,
8 locate, and arrest a bail fugitive for surrender to the appropriate
9 court, jail, or police department, and any person who is employed
10 to assist a bail or depositor of bail to investigate, surveil, locate,
11 and arrest a bail fugitive for surrender to the appropriate court,
12 jail, or police department.

13 SEC. 11. Section 1299.02 of the Penal Code is amended to
14 read:

15 1299.02. (a) No person, other than a certified law enforcement
16 officer, shall be authorized to apprehend, detain, or arrest a bail
17 fugitive unless that person meets one of the following conditions:

18 (1) Is a bail as defined in subdivision (b) of Section 1299.01 or
19 a depositor of bail as defined in subdivision (c) of Section 1299.01.

20 (2) Is a bail fugitive recovery person as defined in subdivision
21 (d) of Section 1299.01.

22 (3) Holds a bail license issued by a state other than California
23 or is authorized by another state to transact and post bail and is in
24 compliance with the provisions of Section 847.5 with respect to
25 the arrest of a bail fugitive.

26 ~~(4) Is licensed as a private investigator as provided in Chapter~~
27 ~~11.3 (commencing with Section 7512) of Division 3 of the Business~~
28 ~~and Professions Code.~~

29 ~~(5)~~

30 (4) Holds a private investigator license issued by another state,
31 is authorized by the bail or depositor of bail to apprehend a bail
32 fugitive, and is in compliance with the provisions of Section 847.5
33 with respect to the arrest of a bail fugitive.

34 (b) This article shall not prohibit an arrest pursuant to Sections
35 837, 838, and ~~839~~; *839, provided that no consideration is paid or*
36 *allowed, directly or indirectly, to any person effecting an arrest*
37 *pursuant to Sections 837, 838, or 839.*

38 (c) *A licensed bail agent or bail fugitive recovery person shall*
39 *not perform any of the duties described in Section 7521 of the*
40 *Business and Professions Code unless they are also licensed*

1 *pursuant to Chapter 11.3 (commencing with Section 7512) of the*
2 *Business and Professions Code.*

3 SEC. 12. Section 1299.04 of the Penal Code is repealed.

4 ~~1299.04. (a) A bail fugitive recovery person, a bail agent, bail~~
5 ~~permittee, or bail solicitor who contracts his or her services to~~
6 ~~another bail agent or surety as a bail fugitive recovery person for~~
7 ~~the purposes specified in subdivision (d) of Section 1299.01, and~~
8 ~~any bail agent, bail permittee, or bail solicitor who obtains licensing~~
9 ~~after January 1, 2000, and who engages in the arrest of a defendant~~
10 ~~pursuant to Section 1301 shall comply with the following~~
11 ~~requirements:~~

12 ~~(1) The person shall be at least 18 years of age.~~

13 ~~(2) The person shall have completed a 40-hour power of arrest~~
14 ~~course certified by the Commission on Peace Officer Standards~~
15 ~~and Training pursuant to Section 832. Completion of the course~~
16 ~~shall be for educational purposes only and not intended to confer~~
17 ~~the power of arrest of a peace officer or public officer, or agent of~~
18 ~~any federal, state, or local government, unless the person is so~~
19 ~~employed by a governmental agency.~~

20 ~~(3) The person shall have completed a minimum of 20 hours of~~
21 ~~classroom prelicensing education certified pursuant to Section~~
22 ~~1810.7 of the Insurance Code. For those persons licensed by the~~
23 ~~department as a bail licensee prior to January 1, 1994, there is no~~
24 ~~prelicensing education requirement. For those persons licensed by~~
25 ~~the department as a bail licensee between January 1, 1994, and~~
26 ~~December 31, 2012, a minimum of 12 hours of classroom~~
27 ~~prelicensing education is required.~~

28 ~~(4) The person shall not have been convicted of a felony, unless~~
29 ~~the person is licensed by the Department of Insurance pursuant to~~
30 ~~Section 1800 of the Insurance Code.~~

31 ~~(b) Upon completion of any course or training program required~~
32 ~~by this section, an individual authorized by Section 1299.02 to~~
33 ~~apprehend a bail fugitive shall carry certificates of completion~~
34 ~~with him or her at all times in the course of performing his or her~~
35 ~~duties under this article.~~

36 SEC. 13. Section 1299.04 is added to the Penal Code, to read:

37 1299.04. A bail fugitive recovery person, a bail agent, bail
38 permittee, or bail solicitor who contracts their services to another
39 bail agent or surety as a bail fugitive recovery person for the
40 purposes specified in subdivision (d) of Section 1299.01, and any

1 bail agent, bail permittee, or bail solicitor who obtains licensing
2 after January 1, 2000, and who engages in the arrest of a defendant
3 pursuant to Section 1301 shall comply with Sections 1800 to 1823,
4 inclusive, of the Insurance Code, and any regulations promulgated
5 by the Insurance Commissioner.

6 SEC. 14. No reimbursement is required by this act pursuant to
7 Section 6 of Article XIII B of the California Constitution because
8 the only costs that may be incurred by a local agency or school
9 district will be incurred because this act creates a new crime or
10 infraction, eliminates a crime or infraction, or changes the penalty
11 for a crime or infraction, within the meaning of Section 17556 of
12 the Government Code, or changes the definition of a crime within
13 the meaning of Section 6 of Article XIII B of the California
14 Constitution.