

SENATE BILL No. 90

By Committee on Corrections and Juvenile Justice

1-27

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 ~~therefor~~ to the attorney
28 general. An application for a ***bail enforcement agent*** license shall be on a
29 form 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, ~~and two~~
35 ~~classifiable sets of the applicant's fingerprints, one of which shall be~~
36 ~~submitted to the federal bureau of investigation for a fingerprint check for~~

1 any criminal history of the applicant;

2 (3) a statement of the applicant's employment history; ~~and~~

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

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

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

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

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

26 (b) (c) In accordance with the summary proceedings provisions of the
27 Kansas administrative procedure act, the attorney general may deny a
28 license if the applicant has:

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

32 (2) been convicted of a felony, unless such conviction has been
33 expunged;

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

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

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

42 (d) (e) Every application for an initial or a renewal license shall be
43 accompanied by a fee in an amount fixed by the attorney general pursuant

1 to section 8, and amendments thereto.

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

4 (1) Name of the licensee; and

5 (2) number and date of the license.

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

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

26 (1) The application for renewal shall provide the information
27 required of original applicants if the information shown on the original
28 application or any renewal thereof on file with the attorney general is no
29 longer accurate;

30 (2) a new photograph shall be submitted with the application for
31 renewal only if the photograph on file with the attorney general has been
32 on file more than two years; and

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

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

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

42 (1) Made any false statement or given any false information in
43 connection with an application for a license or a renewal or reinstatement

1 thereof;

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

4 (3) been convicted of a felony;

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

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

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

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

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

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

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

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

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

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

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

43 (d) *In addition to the applicable original or renewal application fee*

1 *amount fixed by the attorney general pursuant to this section, the*
2 *attorney general may charge and collect a fee from each applicant to*
3 *conduct a criminal history records check. Such fee shall be in an*
4 *amount fixed by the attorney general and shall not exceed an amount*
5 *necessary to reimburse the attorney general for the cost of such criminal*
6 *history records check.*

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

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

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

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

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

36 (b) Any surety ~~or agent of a surety, commonly referred to as a bounty~~
37 ~~hunter, bail agent or bail enforcement agent~~ who intends to apprehend any
38 person in this state pursuant to K.S.A. 22-2809, and amendments thereto,
39 or under similar authority from any other state, shall inform law
40 enforcement authorities in the city or county in which such surety ~~or agent~~
41 ~~of a surety, bail agent or bail enforcement agent~~ intends such
42 apprehension, before attempting such apprehension. The surety ~~or agent of~~
43 ~~a surety, bail agent or bail enforcement agent~~ shall present to the local law

1 enforcement authorities a certified copy of the bond, a valid government-
2 issued photo identification, written appointment of agency, if not the actual
3 surety, and all other appropriate paperwork identifying the principal and
4 the person to be apprehended. Local law enforcement may accompany the
5 surety ~~or agent~~, *bail agent or bail enforcement agent*.

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

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

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

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

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

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

28 (f) Violation of this section is a class A nonperson misdemeanor
29 for the first conviction of a violation and a severity level 9, nonperson
30 felony upon a second or subsequent conviction of a violation.

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

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