

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

House Bill 573

(Delegate K. Kelly, *et al.*)

Judiciary

Judicial Proceedings

Criminal Procedure - Bail Bondsman Solicitation - Penalty

This bill adds an employee of a courthouse and an employee of a correctional facility to the statutory prohibition against solicitation by a bail bondsman; and clarifies that the statutory prohibition applies to approaching, enticing, or inviting a person to use the services of a specific bail bondsman. The bill also increases the penalties for this offense.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues from fines imposed in District Court cases. Any increase in administrative duties for the Maryland Insurance Administration can be handled with existing resources.

Local Effect: Potential minimal increase in local revenues from fines imposed in circuit court cases. Expenditures are not affected.

Small Business Effect: Potential minimal impact on bail bondsmen who currently receive business through the efforts of courthouse or correctional facility employees.

Analysis

Bill Summary: An employee of the courthouse and an employee of a correctional facility are prohibited from engaging in the following acts on the grounds of a courthouse or correctional facility:

- approaching, enticing, or inviting a person to use the services of a specific bail bondsman;

- distributing, displaying, or wearing an item that advertises the services of a bail bondsman; or
- otherwise soliciting business as a bail bondsman.

Violators are guilty of a misdemeanor. First-time offenders are subject to a maximum fine of \$2,500 and a 30-day license suspension if licensed under the Insurance Article. Subsequent offenders are subject to a maximum fine of \$5,000 and a 90-day license suspension if licensed under the Insurance Article. A person convicted of this offense must be referred to the Insurance Commissioner for appropriate action.

Current Law: A bail bondsman or an agent of a bail bondsman may not engage in the following activities on the grounds of a courthouse or correctional facility:

- approach, entice, or invite a person to use the services of a bail bondsman;
- distribute, display, or wear an item that advertises the services of a bail bondsman; or
- otherwise solicit business as a bail bondsman.

Violators are guilty of a misdemeanor, punishable by maximum fines of \$100 for a first offense and \$1,000 for a subsequent offense. A person convicted of this offense must be referred to the Insurance Commissioner for appropriate action.

An “agent” is a person that acts or is authorized to act as the representative of a bail bondsman. “Bail bondsman” refers to a licensed limited surety agent or a licensed professional bail bondsman, but does not include a person that contracts with a public agency to provide bail bonds to persons detained in a correctional facility.

Background: There are two types of bondsmen in the State, property bondsmen and corporate surety bail bondsmen (corporate bondsmen). Corporate bondsmen are by far the more common of the two types.

A surety bail bond is a financial guarantee to the court that the defendant will appear in each and every court appearance as the court directs. A corporate bondsman must be licensed by the Maryland Insurance Administration and have an appointment from an insurance company. Like other licensees, the Insurance Commissioner may deny a license or discipline a corporate bondsman for a variety of reasons, including the willful violation of a State insurance law or any fraudulent or dishonest practice in the insurance business. Once licensed and appointed, a corporate bondsman acts as an agent on behalf of the insurance company and pays a premium to the insurance company for each surety bond. A corporate bondsman charges the defendant 10% of the bail bond, an amount which must be filed with and approved by the Insurance Commissioner.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Insurance Administration, Judiciary (Administrative Office of the Courts), Office of the Public Defender, Department of Legislative Services

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