

2019 Regular Session

SENATE BILL NO. 215

BY SENATOR CLAITOR

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CRIMINAL PROCEDURE. Provides relative to the regulation of bounty hunters by the attorney general. (8/1/19)

1 AN ACT  
2 To amend and reenact the introductory paragraph of Code of Criminal Procedure Art.  
3 312(B), Code of Criminal Procedure Art. 331(C), and Subpart C of Part I of Chapter  
4 5 of Title 22 of the Louisiana Revised Statutes of 1950, to be comprised of R.S.  
5 22:1581 through 1583, to enact Code Title VIII-A of Chapter 1 of Title 15 of the  
6 Louisiana Revised Statutes of 1950, to be comprised of R.S. 15:91 through 96, and  
7 to repeal R.S. 22:1584 through 1586, relative to bail; to provide for the regulation of  
8 bail enforcement agents by the attorney general; to require notice to local law  
9 enforcement when a bail enforcement agent makes an arrest; to require that a bail  
10 enforcement agent carrying a firearm be POST-certified; to provide relative to the  
11 regulation of bail producers; to provide definitions; to provide penalties; and to  
12 provide for related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. The introductory paragraph of Code of Criminal Procedure Art. 312(B)  
15 and Code of Criminal Procedure Art. 331(C) are hereby amended and reenacted to read as  
16 follows:

17 Art. 312. Right to bail before and after conviction

\* \* \*

B. A person released on a previously posted bail undertaking for (1) a crime of violence as defined by R.S. 14:2(B) which carries a minimum mandatory sentence of imprisonment upon conviction or (2) the production, manufacture, distribution, or dispensing or possession with intent to produce, manufacture, distribute, or dispense a controlled dangerous substance as defined by the Louisiana Uniform Controlled Dangerous Substances Law, shall not be readmitted to bail when the person previously failed to appear and a warrant for arrest was issued and not recalled or the previous bail undertaking has been revoked or forfeited. If a person voluntarily appears without confinement by a law enforcement officer or bail ~~recovery~~ **enforcement** agent following a motion to revoke bail or issuance of an arrest warrant for failure to appear but prior to revocation or forfeiture, then he may be released only under one of the following circumstances:

\* \* \*

Art. 331. Discharge of bail obligation

\* \* \*

C.(1) A surety may surrender the defendant at any time. For the purpose of surrendering the defendant, the surety may arrest him. **If the defendant contracts with or otherwise engages or employs a bail enforcement agent to make the arrest, the bail enforcement agent shall be in compliance with the provisions of R.S. 15:91 et seq.** The surety shall pay a fee of twenty-five dollars to the officer charged with the defendant's detention for accepting the surrender, processing the paperwork, and giving the surety a certificate of surrender. Upon the surrender of the defendant, the officer shall retain a copy and forward a copy of the certificate of surrender to the clerk of court and the prosecuting attorney.

(2) Upon surrender of the defendant at any time prior to the expiration of one hundred eighty days after the notice of warrant for arrest was sent, the surety shall be fully and finally discharged and relieved of all obligations under the bail undertaking by operation of law, without the need to file a motion or other pleading.



1           (1) "Bail enforcement" means the apprehension or surrender of a person  
2           who is released on bail or who has failed to appear at any stage of the  
3           proceedings to answer the charge before the court in which he may be  
4           prosecuted.

5           (2) "Bail enforcement agent" means a person who engages in bail  
6           enforcement.

7           §93. Licensing and fees

8           Except as provided by the rules and regulations promulgated in  
9           accordance with this Code Title, bail enforcement agents shall be subject to the  
10           same licensing and fee requirements for bail bond producers as provided in  
11           Chapter 5 of Title 22 of the Louisiana Revised Statutes of 1950.

12           §94. Notice to local law enforcement

13           Before transacting the surrender or arrest of a principal, the bail  
14           enforcement agent shall notify law enforcement in the jurisdiction where the  
15           principal is sought, unless exigent circumstances exist.

16           §95. Standards of conduct; identifying clothing; carrying of firearms

17           A. A bail enforcement agent shall wear identifying clothing before  
18           transacting the surrender or arrest of a principal in a private residence.

19           B. A bail enforcement agent carrying a firearm shall be qualified  
20           annually in the use of firearms by the Council on Peace Officer Standards and  
21           Training and have proof of qualification.

22           §96. Prohibited conduct; penalties

23           A. A bail enforcement agent shall not pay a fee or rebate, or give or  
24           promise anything of value, to a jailer, police officer, peace officer, attorney,  
25           committing magistrate, or any other person who has power to arrest or hold in  
26           custody, or to any public official or public employee, in order to secure the  
27           arrest or detention of a person.

28           B.(1) Any person who violates the provisions of Subsection A of this  
29           Section shall be imprisoned, with or without hard labor, for not more than five

1 years, or fined an amount not to exceed ten thousand dollars, or both.

2 (2) In addition to any imprisonment or fine imposed under Paragraph  
3 (1) of this Subsection, the person shall forfeit and surrender to the attorney  
4 general their license to act as a bail enforcement agent in this state upon finality  
5 of the conviction, and shall be ineligible for life from obtaining a license to act  
6 as a bail enforcement agent in this state.

7 Section 3. Subpart C of Part I of Chapter 5 of Title 22 of the Louisiana Revised  
8 Statutes of 1950, comprised of R.S. 22:1581 through 1583, is hereby amended and reenacted  
9 to read as follows:

10 SUBPART C. BAIL ENFORCEMENT AGENTS PRODUCERS

11 §1581. Regulation of bail enforcement agents Bail bond producers; prohibitions;  
12 penalties

13 A. ~~The commissioner of insurance is hereby authorized to adopt such~~  
14 ~~regulations, in accordance with the Administrative Procedure Act, as are necessary~~  
15 ~~to effectuate the requirements of this Subpart to regulate bail enforcement agents.~~

16 B. ~~The regulations adopted by the commissioner shall include provisions~~  
17 ~~governing:~~

18 (1) ~~Prelicensing and continuing education requirements for bail enforcement~~  
19 ~~agents.~~

20 (2) ~~Bail enforcement activities in this state by nonresident individuals.~~

21 (3) ~~The notification of local law enforcement agencies.~~

22 (4) ~~In-state bail enforcement procedures.~~

23 (5) ~~Penalties for the violation of the regulation.~~

24 A. A bail bond producer may not engage in any of the following  
25 prohibited acts:

26 (1) Pay a fee or rebate or give or promise anything of value to a jailer,  
27 police officer, peace officer, or committing magistrate or any other person who  
28 has power to arrest or hold in custody or to any public official or public  
29 employee in order to secure a client, bailee, settlement, compromise, remission,

1 or reduction of the amount of any bail bond.

2 (2) Pay a fee or rebate or give or promise anything of value to an  
3 attorney in a bail bond matter, except in defense of any action on a bond or for  
4 representation at a bail bond hearing. Whenever a bail bond producer engages  
5 an attorney on behalf of a defendant, the bail bond producer shall obtain prior  
6 written consent from the defendant.

7 (3) Pay a fee or rebate or give or promise anything of value to the  
8 principal or anyone in or on his behalf, including any inmate in a local jail or  
9 prison, or correctional personnel.

10 (4) Conduct bail bond business with any person other than the  
11 defendant, the indemnitor, and an attorney or in the case of a minor, a parent  
12 or guardian, in or on the grounds of a courthouse or jail for the purpose of  
13 executing a bail bond.

14 B. Any person or entity that violates the provisions of Paragraph (A)(1),  
15 (2), or (3) of this Section commits a felony offense punishable by imprisonment,  
16 with or without hard labor, for no more than five years or fined an amount not  
17 to exceed ten thousand dollars, or both. In addition to any imprisonment or fine  
18 imposed, the person or entity shall forfeit and surrender to the commissioner  
19 their license to transact insurance business in this state upon finality of the  
20 conviction. Such person or entity shall be ineligible for life from obtaining a  
21 license to transact insurance business in this state.

22 C. Any person or entity that violates the provision of Paragraph (A)(4)  
23 of this Section shall be guilty of a misdemeanor offense punishable by  
24 imprisonment in the parish jail for no more than six months or fined an amount  
25 not to exceed five thousand dollars, or both. In addition to any imprisonment  
26 or fine imposed, the person or entity shall forfeit and surrender to the  
27 commissioner his license to transact insurance business in this state upon  
28 finality of the conviction. Such person or entity shall be precluded for a period  
29 of three years from obtaining any license to transact insurance business in this

1 state.

2 D. The criminal provisions of this Section shall be investigated, enforced,  
3 or prosecuted only by the proper law enforcement and prosecutorial agencies.

4 §1582. Definitions Surrender for nonpayment of premium

5 ~~As used in this Subpart:~~

6 (1) ~~"Bail enforcement" means the apprehension or surrender of a person who~~  
7 ~~is released on bail or who has failed to appear at any stage of the proceedings to~~  
8 ~~answer the charge before the court in which he may be prosecuted.~~

9 (2) ~~"Bail enforcement agent" means a person who engages in bail~~  
10 ~~enforcement.~~

11 A. Before a breach of an undertaking occurs, a surety or bail bond  
12 producer may surrender a defendant, or the defendant may surrender himself,  
13 to the official to whose custody the defendant was committed at the time the bail  
14 was given. The defendant may be surrendered without a return of the premium  
15 if he changes addresses without notifying his bail bond producer or surety,  
16 conceals himself, leaves the jurisdiction of the court without the permission of  
17 his bail bond producer or surety, fails to appear in any court at any time, or if  
18 the indemnitor seeks to relieve himself of his obligation on the bond, or if the  
19 defendant is convicted of a felony but sentence is not yet imposed. A bail bond  
20 producer shall not surrender a client for nonpayment of a premium until thirty  
21 days after the date the bond is posted.

22 B. When a bail bond producer or surety surrenders a defendant, the bail  
23 bond producer or surety must file written notification and a statement of  
24 surrender indicating the lawful reason for the surrender. The statement of  
25 surrender must be attached to the surrender or recommit form with a copy  
26 provided to the defendant, committing official, and court clerk. The bail bond  
27 producer must maintain a correct copy of the statement of surrender form in  
28 the defendant's file. The statement of surrender shall read as follows:

29 STATEMENT OF SURRENDER



1        a prohibited act committed by a licensed bail enforcement agent contracted  
 2        with a bail bond agency or producer may not serve as the sole basis for the  
 3        suspension or revocation of the agency's or producer's license, or the imposition  
 4        of a fine on the bail bond agency or producer pursuant to R.S. 22:1556, absent  
 5        a finding by the department that the bail bond agency or producer had actual  
 6        or constructive knowledge of, or participated in, the prohibited act.

7                B. Nothing in this Section shall be construed to alter, amend, restrict, or  
 8        limit the liability of any bail bond agency or producer or bail enforcement  
 9        agent.

10        Section 4. R.S. 22:1584 through 1586 are hereby repealed in their entirety.

---

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Alden A. Clement Jr.

---

DIGEST

SB 215 Original

2019 Regular Session

Claitor

Present law provides relative to bail producers as regulated by the commissioner of insurance. Present law includes provisions relative to bail enforcement agents.

Proposed law deletes provisions of present law relative to bail enforcement agents as regulated by the commissioner of insurance, and further provides that bail enforcement agents are to be regulated by the attorney general. Proposed law provides that the attorney general is to promulgate rules and regulations as are necessary to effectuate the requirements of proposed law relative to the regulation of bail enforcement agents, which are to include provisions governing:

- (1) Prelicensing and continuing education requirements for bail enforcement agents.
- (2) Bail enforcement activities in this state by nonresident individuals.
- (3) The notification of local law enforcement agencies, including a requirement that before transacting the surrender or arrest of a principal, the bail enforcement agent must notify law enforcement in the jurisdiction where the principal is sought, unless exigent circumstances exist.
- (4) In-state bail enforcement procedures.
- (5) Standards of conduct for bail enforcement agents, including provisions relative to the requirements that a bail enforcement agent wear identifying clothing before transacting the surrender or arrest of a principal in a private residence, and that a bail enforcement agent carrying a firearm be qualified annually in the use of firearms by the Council on Peace Officer Standards and Training.
- (6) Penalties for the violation of the rules and regulations promulgated pursuant to proposed law.

Proposed law provides the following definitions:

- (1) "Bail enforcement" means the apprehension or surrender of a person who is released on bail or who has failed to appear at any stage of the proceedings to answer the charge before the court in which he may be prosecuted.
- (2) "Bail enforcement agent" means a person who engages in bail enforcement.

Proposed law provides that, except as provided by the rules and regulations promulgated in accordance with proposed law, bail enforcement agents are subject to the same licensing and fee requirements for bail bond producers as provided in present law.

Proposed law provides that before transacting the surrender or arrest of a principal, the bail enforcement agent must notify law enforcement in the jurisdiction where the principal is sought, unless exigent circumstances exist.

Proposed law provides that a bail enforcement agent must wear identifying clothing before transacting the surrender or arrest of a principal in a private residence.

Proposed law provides that a bail enforcement agent carrying a firearm must be qualified annually in the use of firearms by the Council on Peace Officer Standards and Training and have proof of qualification.

Proposed law provides that a bail enforcement agent cannot pay a fee or rebate, or give or promise anything of value, to a jailer, police officer, peace officer, attorney, committing magistrate, or any other person who has power to arrest or hold in custody, or to any public official or public employee, in order to secure the arrest or detention of a person. Proposed law provides that any person who violates this provision of proposed law is to be imprisoned, with or without hard labor, for up to five years, or fined up to \$10,000, or both, and in addition, the person must forfeit and surrender to the attorney general their license to act as a bail enforcement agent upon finality of the conviction, and is ineligible for life from obtaining a license to act as a bail enforcement agent in this state.

Present law provides that a bail surety may surrender the defendant at any time, and that for the purpose of surrendering the defendant, the surety may arrest him.

Proposed law retains present law, and adds that if the defendant contracts with or otherwise engages or employs a bail enforcement agent to make the arrest, the bail enforcement agent must be in compliance with the provisions of proposed law relative to bail enforcement agents.

Present law provides that the commissioner of insurance may determine in the exercise of his discretion that a prohibited act committed by a licensed bail enforcement agent contracted with a bail bond agency or producer may not serve as the sole basis for the suspension or revocation of the agency's or producer's license, or the imposition of a fine on the bail bond agency or producer pursuant present law, absent a finding by the Dept. of Insurance that the bail bond agency or producer had actual or constructive knowledge of, or participated in, the prohibited act.

Proposed law retains present law.

Effective August 1, 2019.

(Amends C.Cr.P. Art. 312(B)(intro para) and 331(C) and R.S. 22:1581-1583; adds R.S. 15:91-96; repeals R.S. 22:1584-1586)